

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

UNITED STATES OF AMERICA                      No. EP:05-CR-856-KC  
v.    El Paso, Texas  
IGNACIO RAMOS and JOSE ALONSO COMPEAN      February 24, 2006

TRIAL TESTIMONY OF ARTURO VASQUEZ  
BEFORE THE HONORABLE KATHLEEN CARDONE  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:      Debra P. Kanof  
                                 Jose Luis Gonzalez  
                                 Assistant United States Attorneys  
                                 700 East San Antonio, Suite 200  
                                 El Paso, Texas 79901

For the Defendant Ramos:  
                                 Mary Stillinger  
                                 4911 Alameda Avenue  
                                 El Paso, Texas 79905  
  
                                 Stephen G. Peters  
                                 303 Texas Avenue, Suite 800  
                                 El Paso, Texas 79901

COPY

1 APPEARANCES:

2 For the Defendant Compean:

3 Maria B. Ramirez  
4 1119 East San Antonio  
5 El Paso, Texas 79901

6 Chris Antcliff  
7 Stanton & Antcliff  
8 521 Texas Avenue  
9 El Paso, Texas 79901

10 Proceedings recorded by stenotype. Transcript produced by  
11 computer-aided transcription.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 MS. KANOFF: The Government calls Agent Arturo  
2 Vasquez.

3 THE COURT: And have you been sworn in?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: You may proceed.

6 ARTURO VASQUEZ, SWORN

7 DIRECT EXAMINATION

8 BY MS. KANOFF:

9 Q. Thank you. State your name for the record.

10 A. Arturo Vasquez.

11 Q. And Mr. Vasquez, how are you employed?

12 A. I'm a Border Patrol agent.

13 Q. How long have you been so employed?

14 A. Three years this June.

15 Q. And, currently, are you functioning in the full capacity as  
16 a Border Patrol agent?

17 A. No, ma'am. I was removed from my Border Patrol duties  
18 about a year ago.

19 Q. And was that sometime in March of 19- -- 2005?

20 A. That's correct, ma'am.

21 Q. And what was the reason that you were removed from your  
22 regular duties?

23 A. Because of a pending investigation regarding a shooting in  
24 the Fabens station.

25 Q. Were you assigned to the Fabens station on February 17,

1 2005?

2 A. That is correct, ma'am.

3 Q. What were your duties and responsibilities on that date?

4 A. Basic duties of the Border Patrol is to detect violation of  
5 the immigration laws.

6 Q. Okay. Was there some kind -- do you remember, about 1:00  
7 in the afternoon, where you were physically located?

8 A. In Fabens we have three areas that we usually work at. I  
9 was assigned to Zone 2.

10 Q. So the Fabens station covers how many miles? Do you know?

11 A. Approximately 25 miles.

12 Q. And that 25 miles is cut up, then, into zones?

13 A. Three zones.

14 Q. And you were working which zone?

15 A. Zone 2.

16 Q. Where were you located at about 1:00 in the afternoon?

17 A. Probably about 26 miles west of the Fabens port of entry.

18 Q. And the Fabens port of entry is located where -- Agent  
19 Vasquez, you -- were you -- you were patrolling Zone 3,  
20 correct.

21 A. 2.

22 Q. And Zone 2 is closest --

23 MS. KANOFF: May I approach the witness, Your Honor?

24 THE COURT: You may.

25 Q. I'm going to hand you an aerial photograph. And what is

1 depicted in that photograph?

2 A. This the Fabens port of entry, and I was west of it.

3 Q. And is that a fair and accurate aerial portrayal of the  
4 Fabens port of entry with what you-all call the Sierra Delta,  
5 the ditch?

6 A. That's correct.

7 Q. And looking into Mexico?

8 A. Yes, ma'am.

9 MS. KANOFF: We would ask that Government's Exhibit 27  
10 be admitted to evidence.

11 THE COURT: Any objections?

12 MR. PETERS: No objection.

13 MR. ANTCLIFF: No objection.

14 THE COURT: It will be admitted. 27 will be admitted.

15 Q. (By Ms. Kanoff) Agent Vasquez, on this photograph, where  
16 is the actual port of entry located, the Fabens port of entry?

17 A. Okay. It's where that trailer is. North of the actual  
18 canal is Sierra Delta. And it's in front -- that one, yes,  
19 right there. This is a trailer.

20 Q. Your station is actually a trailer. Is that correct?

21 A. I can't see from here.

22 Q. Okay.

23 A. That's the compound.

24 Q. Where is your station located?

25 A. From that port of entry, it's probably about ten miles from

1 there.

2 Q. We're looking west. Is that correct?

3 A. Yeah. You go northwest from that location about ten miles.

4 Q. Where were you patrolling on February 17th?

5 A. From that area, about 2.6 miles west of it close to an area  
6 called Martinez Farm.

7 Q. Okay. And before I ask you any specific questions about  
8 what occurred on that day, prior to speaking with you, the  
9 Government, Special Agent Chris Sanchez from DHS-OIG, did you  
10 require a proffer letter?

11 A. Yes, ma'am.

12 Q. You had an attorney at the time?

13 A. Yes, ma'am.

14 Q. And why did you -- you sought an attorney for assistance  
15 when this occurred. Is that correct?

16 A. That's correct.

17 Q. And what did you understand the proffer letter to mean to  
18 you?

19 A. He advised me that any statement given to the investigators  
20 were not going to be used in this criminal proceedings.

21 Q. And under what conditions?

22 A. No conditions, that they were not going to be used.

23 Q. Do you have to tell the truth?

24 A. I have to tell the truth, yes.

25 Q. That's what I meant by "conditions."

1 A. Yes, ma'am.

2 Q. And if you don't -- did your attorney advise you what would  
3 happen to you if you didn't tell the truth?

4 A. Yes, ma'am.

5 Q. What would that be?

6 A. That I would be prosecuted for lying under oath or not  
7 telling what I was supposed to tell.

8 Q. Okay. Agent Vasquez, with regard to February 17th, 2005,  
9 exactly what was your -- did you have some kind of special  
10 program going at that time?

11 A. Where we -- we're supposed to be on the levee most of the  
12 time.

13 Q. Okay.

14 A. Because -- we're supposed to be deferring everything back  
15 because we didn't have enough people to work the area.

16 Q. Okay.

17 A. So we're supposed to stay in the levee, pushing people  
18 back. Or whoever made an actual entry, we had to arrest them.

19 Q. What's "pushing people back"?

20 A. Well, by detecting people. Just by the mere presence of  
21 the agents, sometimes people go back. They don't even try to  
22 come in, or come across to the United States.

23 Q. And that's basically your job every day?

24 A. Every day.

25 Q. How many aliens do you push back a day?

1 A. It depends on the area. The most --

2 Q. Zone 2?

3 A. In that ridge, 40, 50, sometimes 70. Depends on the day of  
4 the week, time of the year.

5 Q. On February 17, 2005, did -- were you patrolling the levee  
6 around 1:00 in the afternoon?

7 A. Yes, ma'am.

8 Q. And at some point in time, did something cause you to  
9 travel from the position that you were stationed at, at the  
10 time you heard a transmission?

11 A. Yes, ma'am.

12 Q. What occurred?

13 A. There was radio traffic from Agent Compean that there was a  
14 van traveling north close to the Stubbs Compound towards --

15 Q. Close to the?

16 A. Stubbs Compound.

17 Q. Okay. And what else did you hear?

18 A. That the van was moving at a high speed inside the Island  
19 Road.

20 Q. How far were you from the Stubbs Compound?

21 A. About seven to eight miles away from him.

22 Q. Okay. And when you heard that transmission, what did you  
23 do?

24 A. I proceeded to respond to the call. Usually we have gates  
25 to get into the levee. So I went ahead opened the gate. Went



1 into Wingo Reserve Road and started heading westbound to  
2 respond to his call.

3 Q. Okay. Okay. When you say you have gates, what are you  
4 talking about?

5 A. Those are access gates to the levee.

6 Q. And are they locked?

7 A. Most of the times, yes.

8 Q. How are they locked?

9 A. They have a normal lock.

10 Q. Who has the keys?

11 A. Padlock. All agents have a key to open those gates. It's  
12 a master key to open those locks.

13 Q. How far apart are the gates that you can get off the levee  
14 from?

15 A. There's one by the POE, one by C.C. Bills, and one by  
16 Grijalva gates.

17 Q. How far is the POE from C.C. Bills?

18 A. About 2.7, 2.8 miles, more or less.

19 Q. So you actually have to stay on the levee for a couple of  
20 miles before you can come off the levee. Is that correct?

21 A. Yes.

22 Q. And there's something -- the reason you can't come off the  
23 levee is because of the ditch, right?

24 A. There's no access.

25 Q. So you have to find a crossing area?

1 A. Yes, ma'am.

2 Q. So that day you proceeded to C.C. Bills gate. Is that  
3 correct?

4 A. That's correct, ma'am.

5 MS. KANOFF: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 Q. I'm handing you first what's been marked as Government's  
8 Exhibit Number 83E. Is that a closeup of the lock on the C.C.  
9 Bills gate?

10 A. Yes it is. But this is not the way we had it at the time.

11 Q. How did you have it at the time?

12 A. They usually go under this box right here.

13 Q. There's a chain that's depicted in that photograph. Is  
14 that correct?

15 A. Yes, ma'am.

16 Q. And you're indicating that the way that the chain is locked  
17 in that picture is not the exact same way it was locked on that  
18 day?

19 A. No, ma'am. It was under -- there's, like, a hole in here.

20 Q. Other than that, is that a fair and accurate depiction of  
21 the part of the gate that swings open?

22 A. That's correct, ma'am.

23 Q. I'm handing you Government's -- and from what perspective?  
24 Is that from the north or south side?

25 A. North side.

1 Q. So we're standing on the north side and taking a  
2 photograph?

3 A. Yes.

4 Q. And Government's Exhibit Number 83D.

5 A. I've got it.

6 Q. What does that depict?

7 A. That's the south side of the same gate.

8 Q. So that Government's Exhibit 83E is the north side and 83D  
9 is the south side of that locking mechanism. Is that correct?

10 A. That's correct, ma'am.

11 Q. And, finally, Government's Exhibit Number 83C, is that a  
12 shot of the entire gate?

13 A. From the south side, yes.

14 Q. So you're actually on the levee taking this picture. Is  
15 that correct?

16 A. Yes, ma'am.

17 MS. KANOFF: We would ask Government's Exhibits 83C, D  
18 and E be admitted into evidence.

19 THE COURT: Any objections?

20 MR. PETERS: No objection.

21 MR. ANTCLIFF: No objection.

22 THE COURT: Government's Exhibit 83C, 83D and 83E will  
23 be admitted.

24 Q. (By Ms. Kanoff) Okay. So you're standing on the levee.  
25 So when you approach the C.C. Bills gate, you would have

1 approached it from the position from which this photograph is  
2 taken. Is that correct?

3 A. That is correct, ma'am.

4 Q. Okay. So you go to the gate. Is it locked?

5 A. Yes, ma'am.

6 Q. And what do you do?

7 A. I got off my vehicle, my marked Border Patrol unit, and  
8 went ahead and opened the gate and -- unlocked the padlock,  
9 opened the gate, went back into my vehicle, and I started  
10 heading westbound.

11 Q. And where did you proceed?

12 A. I went to Wingo Reserve Road westbound towards Rawls  
13 Street. And intersection Rawls and Island Road.

14 Q. Rawls and Island, did you say?

15 A. That's correct.

16 Q. What happened next?

17 A. I didn't see any vehicles with the description that Agent  
18 Compean put out on the radio.

19 Q. What description did you hear?

20 A. A full van.

21 Q. He didn't say minivan?

22 A. Full. A van just leaving that area.

23 Q. The 76 area, or did he say, if you recall?

24 A. Well, he said that, but my understanding is that we  
25 don't --

1 Q. You can talk about it. The motion in limine has been  
2 lifted. Go ahead.

3 A. The van was leaving the 76 area at a high rate of speed  
4 towards Island Road. It was a full-size van.

5 Q. That was pretty far from where you were patrolling,  
6 however?

7 A. Yes, ma'am.

8 Q. When you hear a radio transmission like that, about how  
9 many agents are out in the field at any given time on an  
10 afternoon?

11 A. At the time, average of five to seven, at the most.

12 Q. Is it common, when you hear a radio transmission like that,  
13 that everybody converge on the area?

14 A. That's correct, ma'am.

15 Q. So you were following what you thought was your job,  
16 correct?

17 A. Yes, ma'am.

18 Q. So, when you get to Island Road, you don't see the van?

19 A. No, ma'am.

20 Q. What happens next?

21 A. I related that information to Agent Compean, that I didn't  
22 see any vehicles with that description. And within minutes  
23 there's, again, radio traffic that Agent Ramos had spotted that  
24 vehicle close to the lights on the intersection of Alameda and  
25 Fabens Road.

1 Q. Who actually speaks and says that Agent Ramos spotted the  
2 vehicle close to the lights?

3 A. Agent Ramos.

4 Q. So you-all recognize each other's voices, I take it, on the  
5 radio?

6 A. Yes, ma'am. Yes, ma'am.

7 Q. What happened next?

8 A. He further stated the vehicle was making a U-turn, going  
9 back south on Fabens Road towards the S curve.

10 Q. Toward the S curve?

11 A. Yes, ma'am.

12 Q. So what did you do?

13 A. At that point I moved from that intersection of Island Road  
14 towards Jess Harris, which is the south part of the S curve, or  
15 Fabens South Road.

16 Q. Okay. And then what? Did you arrive at Jess Harris Road  
17 then?

18 A. Yes. I stayed on the intersection --

19 Q. What were the two streets that were intersecting?

20 A. Island Road and Harris Road.

21 Q. And Island Road is perpendicular to Jess Harris Road?

22 A. Yes, ma'am.

23 Q. Is there a stop sign there?

24 A. Yes, ma'am.

25 Q. And did you stay at that stop sign?

1 A. I moved. I stopped, then moved away from the stop sign,  
2 and I parked my vehicle facing south -- I mean, facing north.

3 Q. When you say "moved away from the stop sign," what do you  
4 mean?

5 A. I just got on Jess Harris Road, facing north.

6 Q. And parked your vehicle facing north?

7 A. Yes, ma'am.

8 Q. I assume your engine was still on?

9 A. Yes, ma'am.

10 Q. And while you were there, what did you see?

11 A. I see a gray van going south on Jess Harris Road past the S  
12 curve. And then I see a Dodge pickup truck marked Border  
13 Patrol pickup truck, and then a two-door Border Patrol unit,  
14 also following the gray van.

15 Q. So you see the gray van and two Border Patrol vehicles  
16 following. Is that correct?

17 A. Yes, ma'am.

18 Q. Did they pass you?

19 A. Yes, ma'am.

20 Q. What was the first vehicle to pass you?

21 A. The gray van.

22 Q. And did you get a look at the driver?

23 A. Yes.

24 Q. What did you see?

25 A. Hispanic male, moustache, slim.

1 Q. Okay. Did you call that out on the radio?

2 A. No, ma'am.

3 Q. Why not?

4 A. We don't -- it's not normal.

5 Q. It's not important to identify --

6 A. Well, it is. I guess it is, but it didn't occur to me to.

7 Q. Who was in the vehicle immediately behind the vehicle --  
8 who was driving the Border Patrol vehicle?

9 A. Agent Ramos.

10 Q. And who was driving the Border Patrol vehicle behind Agent  
11 Ramos?

12 A. Agent Juarez.

13 Q. At the point where you were parked the intersection of  
14 Island Road and Jess Harris, was it still asphalt, or had it  
15 turned to dirt?

16 A. It's asphalt.

17 Q. Still asphalt. Is that correct? And approximately -- I  
18 know you're facing them, so it's hard to tell, but  
19 approximately what speed were they going?

20 A. Easily over 50.

21 Q. Easily over 50?

22 A. It's hard to tell. But, I mean, it was just --

23 Q. In the past you've said faster, right?

24 A. About -- probably over 50.

25 Q. But, in the past, you've said as much as 65 or 70, correct?



1 A. Yes, ma'am.

2 Q. What did you do after the three vehicles passed you?

3 A. Okay. I made a U-turn. By the time I made the U-turn,  
4 they were already, you know, away from me.

5 Q. Okay. But you followed anyway?

6 A. Yes, ma'am.

7 Q. That's your job?

8 A. Yes, ma'am.

9 Q. And were you able -- you followed -- did you also go fast?

10 A. I tried to go fast, but, once they hit the dirt road, I  
11 couldn't see anything, so I had to slow down.

12 Q. Okay. Did you finally arrive where all of the vehicles had  
13 stopped?

14 A. Yes, ma'am.

15 Q. What did you see when you arrived?

16 A. I saw the -- well, the dust had to settle down, because I  
17 couldn't see. Then I saw the gray van parked close to the  
18 drainage ditch. Then I saw the Dodge Ram, the two-door. Then  
19 I parked behind them.

20 Q. Okay. What did you -- who did you see, anybody?

21 A. I saw Agent Juarez standing right next to the gray van on  
22 the driver's side.

23 Q. Standing next to the van?

24 A. Yes, ma'am.

25 Q. How close was he to the ditch?

1 A. Within -- he was right at the edge of the ditch, and he was  
2 probably within five feet from the van driver's side.

3 Q. So he was a little bit over from the van, but up on the  
4 ditch?

5 A. Yes, ma'am.

6 Q. At the edge of the ditch. Did you see anyone else?

7 A. No, ma'am.

8 Q. What was Agent Juarez doing when you saw him?

9 A. He was just standing, looking south.

10 Q. Okay. When you got -- the minute you got out of your car,  
11 what, if anything, did you hear?

12 A. Okay. My windows were rolled up. And, as I was opening  
13 the door, I heard multiple gunshots.

14 Q. Okay.

15 A. And I looked around, and I didn't see anything. I saw  
16 Oscar Juarez standing there.

17 Q. Was Oscar Juarez's gun out?

18 A. No, no, ma'am.

19 Q. So you heard gunshots. Did you hear any voices?

20 A. No, ma'am.

21 Q. Nobody called out, "Gunshots"?

22 A. No, ma'am.

23 Q. When you say you hear multiple -- I don't want you to  
24 guess, but what does "multiple" mean to you?

25 A. More than five.

1 Q. Okay. When you heard these gunshots, you say Agent Juarez  
2 was standing at the edge of the ditch, correct?

3 A. Yes, ma'am.

4 Q. And you were several -- you were a van length and several  
5 car lengths behind him, correct?

6 A. Yes, ma'am.

7 Q. And there's some slope to that road, back the way the cars  
8 were trailing. Is that correct?

9 A. Yes, ma'am.

10 Q. Okay. Did Agent Juarez turn around when you got there?

11 A. As I was walking towards him and the van, he started  
12 walking away from the van towards the east. And, as he was  
13 doing that, I asked him, "Hey, what happened?" He didn't  
14 answer. He continued walking east. And then I got to the van,  
15 to the driver's side. Then I took a look inside the van and I  
16 saw a cellular phone connected to the cigarette lighter.

17 Q. In order to talk to Agent Juarez, you had to walk right by  
18 the driver's side of that van, correct?

19 A. Yes, ma'am.

20 Q. And you stopped and took a look?

21 A. Yes, ma'am.

22 Q. And you saw a cell phone?

23 A. Yes, ma'am.

24 Q. Attached to a cigarette lighter, did you say?

25 A. Yes, ma'am.

1 Q. Then what did you do?

2 A. I grabbed that phone and I started going through the phone  
3 numbers inside the phone.

4 Q. So you didn't think anybody was in danger when you did  
5 that?

6 A. Well, I didn't see him -- I mean, I didn't see the other  
7 agents, I just saw him. I asked him what happened. He didn't  
8 say anything. He got the phone. "Hey, where are these guys?"  
9 He said, "They're at the vega, chasing this guy."

10 Q. What?

11 A. They are at the vega, which is the space between the levee  
12 and the river. He's chasing these guys down.

13 Q. Okay. Let's go back a little bit. When you said, "Where  
14 are these guys?" Did you use their names?

15 A. No, I just said "these guys."

16 Q. Who did you mean by "these guys"?

17 A. Agent Ramos and Compean.

18 Q. How did you know they were the ones that were already  
19 there?

20 A. Agent Compean, his vehicle was parked in the levee. And  
21 Agent Ramos, I assumed he was already there when I got there  
22 because he was the first one. So, when I didn't see him, I  
23 assumed he was there.

24 Q. So, when you asked, "Where are these guys?" Who did you  
25 mean?

1 A. Agent Ramos and Agent Compean.

2 Q. Were there any other agencies around at that time?

3 A. No, ma'am.

4 Q. That you saw?

5 A. No, ma'am.

6 Q. So Oscar Juarez didn't answer your question?

7 A. The first time, no.

8 Q. And then what happened?

9 A. I asked him, "Where are these guys?" That's when he

10 replied, "They're at the vega, chasing these guys down."

11 Q. Why didn't you help him?

12 A. Because it's not normal. Somebody has to stay with the

13 van.

14 Q. Agent Vasquez, you heard shots, correct?

15 A. Yes, ma'am.

16 Q. And then you find out that there's two Border Patrol agents

17 that are chasing someone, correct?

18 A. Yes, ma'am.

19 Q. And, to your knowledge, they're the only two out there,

20 correct?

21 A. Yes, ma'am.

22 Q. Did you call for assistance?

23 A. No.

24 Q. And Agent Juarez is just standing there?

25 A. Yes, ma'am.

1 Q. Does he seem concerned?

2 A. No.

3 Q. Describe his demeanor.

4 A. He was just standing, looking south. So that's why I  
5 didn't react. I said, "Well, maybe nothing is going on."

6 Q. Was he excited?

7 A. No. He was just standing there.

8 Q. Did he tell you that he had seen an assault on Agent  
9 Compean?

10 A. No. The only thing he mentioned, "There's a shotgun on the  
11 ground." That's all he mentioned.

12 Q. He tells you, "There's a shotgun on the ground"?

13 A. Yes, ma'am.

14 Q. Did he point it out to you?

15 A. Yes, ma'am.

16 Q. When he pointed it out, did you look at it?

17 A. Yes, at that time I think that I was still looking at the  
18 phone numbers on the cell phone, and he points out the shotgun.  
19 And I looked up, looked at the shotgun and continued looking at  
20 the telephone numbers inside the cell phone.

21 Q. Where was the shotgun located?

22 A. On the slope between the drainage canal and the levee.

23 Q. Okay.

24 THE COURT: I think he used 11.

25 MS. KANOFF: 11.

1 THE COURT: No, 29.

2 MS. KANOFF: 29. 29, right.

3 Q. (By Ms. Kanoff) You have a pointer, like a laser pointer,  
4 up there? And if I go up there, don't point it at me, please.

5 A. Okay.

6 Q. Hold on. Sorry, sorry, sorry.

7 THE COURT: If you need water, there's water.

8 Q. I'm handing you what's been marked and admitted into  
9 evidence as Government's Exhibit Number 29. It's a photograph  
10 of -- in general, of that area that you're talking about,  
11 correct?

12 A. Yes, ma'am.

13 Q. You recognize Jess Harris Road?

14 A. Yes, ma'am.

15 Q. And the van was approximately here, correct?

16 A. Yes, ma'am.

17 Q. And where was Agent Juarez standing? Now you can use your  
18 pointer.

19 A. He was, more or less, in this area.

20 Q. Okay. And when he pointed out the shotgun to you, where is  
21 the shotgun located?

22 A. From here, about this area right here.

23 Q. So within the slope of the ditch?

24 A. Yes, ma'am.

25 Q. And just, like, sitting inside the southern slope of the

1 ditch?

2 A. That's correct, ma'am.

3 Q. Okay. And what did you do about it? Anything about the  
4 shotgun?

5 A. No, ma'am.

6 Q. Again, weren't you concerned that Agent Compean had dropped  
7 his shotgun?

8 A. No, ma'am.

9 Q. Why not?

10 A. Because I didn't see him. I didn't know that he had a  
11 shotgun with him.

12 Q. Okay. Oh, I thought that Agent Juarez told you that that  
13 was Compean's shotgun. Did I misunderstand?

14 A. No, he didn't mention that.

15 Q. What did he say exactly?

16 A. He just said both agents were on the vega, chasing the  
17 driver of the van.

18 Q. But he pointed out the shotgun?

19 A. Yes.

20 Q. What did he say when he pointed it out?

21 A. "There's a shotgun on the ground." That was all.

22 Q. He didn't identify whose it was?

23 A. No, ma'am.

24 Q. But you recognized it as the same kind of shotgun that  
25 Border Patrol agents are issued, correct?



1 A. It looked like the one that we usually get issued.

2 Q. So were you surprised, or what, if anything, did you think  
3 when you saw that shotgun?

4 A. No, ma'am, I just looked at it.

5 Q. Okay. What happened next?

6 A. After that, I don't remember exactly if at that time the  
7 Field Operation Supervisor Richards got there, and then one of  
8 the senior principal agents, Lance, got there. And at the same  
9 time they got there, I think Agent Ramos and Agent Compean were  
10 coming back from the vega towards the drain.

11 Q. So, shortly after you arrived and you saw the shotgun,  
12 other agents arrived?

13 A. That's correct, ma'am.

14 Q. And you recall Supervisory Agent Richards arriving,  
15 correct?

16 A. That's correct, ma'am.

17 Q. And who else did you recall arriving?

18 A. Lorenzo Medrano.

19 Q. He's a senior Border Patrol agent?

20 A. That's correct, ma'am.

21 Q. What's a senior Border Patrol agent?

22 A. With time; you get that title after three years of working  
23 with Border Patrol.

24 Q. Both Defendants Ramos and Compean were senior Border Patrol  
25 agents, correct?

1 A. Yes, ma'am.

2 Q. Were you --

3 A. Yes, ma'am.

4 Q. -- on that date?

5 A. Yes, ma'am.

6 Q. How long have you been in the Border Patrol?

7 A. Two and a half years with Fabens, and one year in  
8 San Diego.

9 Q. So you were assigned to San Diego first?

10 A. Yes, ma'am.

11 Q. So, on this date, how long -- on February 17, 2005, how  
12 long had you been a Border Patrol agent?

13 A. Altogether, more than three years.

14 Q. Okay. After everybody started arriving, what, if anything,  
15 did you do?

16 A. I was still getting those numbers from the cell phone.

17 Q. Okay. I'm sorry. You're getting cell numbers from the  
18 cell phone. What are you doing?

19 A. Retrieving information. Most of these guys, they have  
20 their contacts, the ones they work for. And that's intel  
21 information for us. Sometimes it's beneficial.

22 Q. But you're no DEA agent, correct?

23 A. No, ma'am.

24 Q. And you must call DEA for every drug seizure, correct?

25 A. That's correct, ma'am.

1 Q. But you were preliminarily looking at the cell phone for  
2 what purpose?

3 A. Just to gather information for -- you know, for the people  
4 that they usually contact when they are going to get across  
5 with marijuana loads and stuff like that.

6 Q. What would you do with that information?

7 A. I would provide it to intel and DEA agents when we talk to  
8 them.

9 Q. But they can look at it themselves, correct?

10 A. Yes.

11 Q. In fact, DEA seized the cell phone, didn't they?

12 A. Yes.

13 Q. And they were called to the scene, correct?

14 A. After that.

15 Q. Okay. So you're pretty taken with the cell phone, spending  
16 most of the time looking down?

17 A. Yes, ma'am.

18 Q. A lot of numbers in the cell phone?

19 A. I don't remember. There usually are enough.

20 Q. You didn't know what any of those numbers were, though?

21 A. They put codes.

22 Q. I'm sorry?

23 A. They put codes. They go by numbers.

24 Q. So you decipher the codes right there?

25 A. No, ma'am.

1 Q. Okay. And then what did you do when you were finished  
2 looking at the cell phone?

3 A. Mr. Richards, he kind of got us together and -- and he  
4 looked concerned that we don't send out too much information  
5 during the those events. And sometimes they're wondering  
6 what's going on. And --

7 Q. He looked concerned?

8 A. Yes. He said, "You guys" -- I'm quoting him. "You guys  
9 need to start apprehending these guys." Because, I guess, he  
10 realized the guy had gone back to Mexico. And he said, "You  
11 need to start apprehending these guys." That's why they kept  
12 coming back.

13 Q. He said he was concerned about communication?

14 A. Sorry?

15 Q. He looked concerned about information, or communicating,  
16 something like that?

17 A. I guess communication. Because, sometimes, when you're  
18 working those -- those incidents, people sometimes don't talk  
19 too much on the radio, or you have agents that just talk too  
20 much on the radio.

21 Q. But he did not think there was enough radio traffic that  
22 day. Isn't that correct?

23 A. That would be my assumption.

24 Q. Well, didn't he tell the agents that were standing about  
25 the van when he arrived that there wasn't enough radio traffic?

1 MR. PETERS: Objection, hearsay.

2 THE COURT: All right. I'll sustain.

3 Q. What did he say about the radio traffic?

4 MR. PETERS: Objection, hearsay.

5 THE COURT: I'll sustain.

6 MS. KANOFF: Well, I think it's res gestae of the  
7 incident?

8 THE COURT: Then you better give me --

9 MS. KANOFF: Okay.

10 THE COURT: Predicate.

11 Q. (By Ms. Kanoff) What -- did he then give instructions?

12 MR. PETERS: Objection, hearsay.

13 THE COURT: Well, he can answer if he gave  
14 instructions. I just don't want to hear what they are.

15 A. Yeah, after he said that --

16 MR. ANTCLIFF: Object to anything after "yeah."

17 THE COURT: Let me explain something to you. Unless I  
18 instruct you to do that, you cannot say what other people told  
19 you, okay? So listen. Her question was, did he give you  
20 instructions? Don't say what the instructions were. Did he  
21 give you instructions?

22 A. Yes, ma'am.

23 Q. He acted like a supervisor?

24 A. Yes, ma'am.

25 Q. Were Ramos and Compean present when he was giving his

1 instructions?

2 A. They were on the other side of the ditch, south side of the  
3 ditch.

4 Q. Okay. If you would use your laser pointer, when Richards  
5 arrives and gives his instructions, where are Compean and  
6 Ramos?

7 A. This area, more or less.

8 Q. Are they up on the levee, or coming down the ditch?

9 A. I think one was on the levee and the other one close to the  
10 slope.

11 Q. Did you observe them coming up over the side of the levee?  
12 When you first got there, you didn't see them, right?

13 A. No, ma'am.

14 Q. Did you observe them appear from the other side of the  
15 levee?

16 A. Yes, ma'am.

17 Q. Okay. And were all of the -- was the supervisor agent  
18 there at that time?

19 A. Yes, ma'am.

20 Q. And what did you observe?

21 A. They just walked towards the drain canal. And, again, the  
22 same time, Mr. Richards, he was talking to us.

23 Q. So you were paying attention to Mr. Richards?

24 A. Yes.

25 Q. Did they appear at approximately the same time?

1 A. One was walking behind the other one.

2 Q. How far behind?

3 A. Probably five to seven steps, probably.

4 Q. In earshot of each other?

5 A. Excuse me?

6 Q. In earshot?

7 MR. ANTCLIFF: Object, calls for speculation.

8 THE COURT: I'll overrule.

9 A. Yes, ma'am.

10 Q. Now, don't say what instruction you received, but did you  
11 receive instructions?

12 A. Yes, ma'am.

13 Q. And did you follow those instructions?

14 A. Yes, ma'am.

15 Q. What did you do?

16 A. After he took some pictures of the van.

17 Q. By "he" --

18 A. Mr. Richards. I took off, following his instructions.

19 Q. Okay. When you took off, had either Agent Compean or Agent  
20 Ramos come across the ditch to the location of the van?

21 A. I don't remember, ma'am.

22 Q. Okay. So you don't remember seeing either of them to the  
23 north side of the ditch?

24 A. No, ma'am.

25 Q. Where did you go?

1 A. I went back to my assigned area. And --

2 Q. What was that area again?

3 A. That's Zone 2, close to the Martinez Farm.

4 Q. Okay. And how did you -- did you go back to the levee?

5 A. Yes, ma'am.

6 Q. How did you get back on the levee?

7 A. Again, as I was going through the gate, I don't know what  
8 happened, the gate was closed again. I don't know if one of  
9 the --

10 Q. Had you left it open?

11 A. Yes, ma'am.

12 Q. Are you supposed to leave it open?

13 A. Well, no, I just didn't want to --

14 Q. You were in a hurry?

15 A. Yes, ma'am, I didn't want to spend more time doing that.

16 As I was going back up on the levee, I had to get off my  
17 vehicle again, unlock the padlock, open the gate, get back into  
18 my vehicle. And, as I was getting up on the levee, I saw Agent  
19 Compean getting off the levee.

20 Q. Okay. So take your pointer, please, and show the jury  
21 where you were situated when you saw -- your vehicle -- you  
22 said you had gotten back into your vehicle, correct?

23 A. Yes, ma'am.

24 Q. Where was your vehicle situated when you saw Agent Compean  
25 coming to the levee?



1 A. I was more or less in this area, getting ready to move  
2 forward towards the gate.

3 Q. You were still on the other side of the gate?

4 A. Yes, ma'am.

5 Q. Had you already opened the gate?

6 A. Yes, ma'am.

7 Q. And where was Agent Compean's vehicle when you first saw  
8 him?

9 A. He was coming from the west side, which is right here  
10 towards this area right here, and he stopped right there.

11 Q. And he stopped his vehicle?

12 A. Yes, ma'am.

13 Q. How -- in what direction did he point his vehicle before he  
14 stopped it?

15 A. His vehicle was pointing north. North would be this area  
16 here.

17 Q. You were already in your vehicle. Is that correct?

18 A. That's correct, ma'am.

19 Q. What happened?

20 A. He got off the vehicle, he went straight to my driver's  
21 side, and --

22 Q. Now, could you show, where was your vehicle now where the  
23 encounter was on the driver's side?

24 A. Okay. I was more or less in this area facing south. His  
25 vehicle was facing north. So he gets off the vehicle. He goes

1 towards my principal unit, towards the driver's side.

2 Q. Does he speak with you?

3 A. Yes, ma'am.

4 Q. What did he say?

5 A. I asked him, "Are you okay?". And then he shows me, like, a  
6 little cut on this part of the hand. I don't remember what  
7 hand, but he shows me his hand. He had, like, a little cut,  
8 and you could see the difference in skin color because of the  
9 cut.

10 Q. Okay.

11 A. And I told him, "What happened?" And he goes, "Well, that  
12 little bitch took me to the ground and threw dirt on my face."

13 Q. He said, "That little bitch took me to the ground" --

14 A. Yes, ma'am.

15 Q. And what did you say?

16 A. I asked him again, "Are you okay?" And then he goes,  
17 "Yeah." And then I asked him, "I thought I heard some  
18 gunshots," and he goes, "Well, I had to fire some rounds. I  
19 went through a magazine exchange, and then I fired some  
20 additional rounds."

21 Q. Okay. I had to fire some rounds. Did he say why he had to  
22 fire the rounds?

23 A. No, ma'am.

24 Q. Then he said he went through a magazine exchange?

25 A. That's correct.

1 Q. What is a magazine exchange?

2 A. You have to remove the magazine that you have on your gun,  
3 take it out, get another one, and put it back into your pistol.

4 MS. KANOFF: May I approach the witness, Your Honor?

5 THE COURT: Yes.

6 Q. Let me hand you what's been marked and admitted into  
7 evidence as Government's Exhibit 39A. Do you recognize what  
8 kind of weapon that is?

9 A. That's the Beretta assigned to Border Patrol agents.

10 Q. And handing you Government's Exhibit 39B. What is that?

11 A. This magazine that is used on this type of weapon.

12 Q. And what is a magazine exchange?

13 A. Because this magazine is supposed to be in, and when you're  
14 running out of ammunition, you just press this button, release  
15 this, get the other one, and put it back in.

16 Q. Okay. If you would hold onto that for a minute. So he  
17 told you he -- did he tell you he was being shot at?

18 A. No, ma'am.

19 Q. Did he tell you he thought he saw a shiny object in  
20 somebody's hand?

21 A. No, ma'am.

22 Q. He didn't tell you why he was shooting?

23 A. No, ma'am.

24 Q. You didn't ask?

25 A. No, ma'am.

1 Q. And then what did he tell you next?

2 A. At the time that we are talking about this, there's more  
3 radio traffic on my patrol car that somebody had to go back to  
4 the crime scene because we had to baby-sit, or take care of,  
5 the van. So the truck would get there to pick it up.

6 Q. Okay. And was the traffic specific? Did it say who had to  
7 go?

8 A. I was assigned to Zone 2, so it was me that had to go back.

9 Q. Even though you were coming off the levee, you were going  
10 to have to go back?

11 A. Yes, ma'am.

12 Q. You were going onto the levee?

13 A. Yes.

14 Q. I'm sorry. So he's at your window, correct?

15 A. Yes, ma'am.

16 Q. And you could hear the radio traffic?

17 A. Yes, ma'am.

18 Q. When -- after you heard that radio traffic, what did you  
19 say?

20 A. Okay. I told him, "I got to go." He said, "You know what?  
21 I got to go back to the station to do the report" -- no, let me  
22 go back.

23 When he was talking about the magazine exchange, I  
24 asked him, "How many rounds did you fire?" And he goes, "I  
25 don't know." So he had some used shells from the gun.

1 Q. Spent casings?

2 A. Spent casings. I don't think he had them on hand, but he  
3 got them from somewhere and he showed them to me.

4 Q. He opened his hand?

5 A. His hand, and showed them to me like that. And I told him,  
6 "How many do you have?" He goes, "Let me see." He counted  
7 them. I didn't count them. He said, "There's nine." And then  
8 I asked him again, "And how many did you fire?" He said, "I  
9 don't know." So he went back to the magazines --

10 Q. Okay. The magazine, if you would hold it up. You said he  
11 went back to the magazines?

12 A. Yes, ma'am.

13 Q. Where were the magazines located when he looked at them  
14 while you were there?

15 A. He had one magazine pouch.

16 Q. And the other one was in the pistol? So, in front of you,  
17 did he examine both magazines?

18 A. Yes, and he made a count.

19 Q. So one of the them was in his pouch, the other was in the  
20 gun. Is that correct?

21 A. That's correct.

22 Q. And did he remove the one from the gun to count how many  
23 remaining bullets he had?

24 A. Both of them.

25 Q. And when he was finished examining both magazines, what did

1 he say?

2 A. "I'm probably missing five, about five rounds."

3 Q. Was it at that point that the radio traffic came on?

4 A. Yes, ma'am.

5 Q. And then what did you say?

6 A. I told him, "I got to go." And he says, "I also have to go  
7 to the station to do the report. By the way, can you find  
8 those casings for me?"

9 Q. I'm sorry. He asked you to find the casings for him?

10 A. He says, "Since you're going to that area, can you look for  
11 those?"

12 Q. Is that all he said?

13 A. Yes, ma'am.

14 Q. He didn't tell you what to do with them?

15 A. No, ma'am.

16 Q. What did you tell him when he asked you to do that?

17 A. I said, "Okay," and I took off.

18 Q. You had been a Border Patrol how long?

19 A. Over three years.

20 Q. What did you understand -- let me ask you, what's evidence  
21 response team?

22 A. It's a team composed of Border Patrol agents that usually  
23 go and investigate when there's a shooting.

24 Q. And are you trained when there's a shooting to call an  
25 Evidence Response Team immediately?

1 A. No, ma'am.

2 Q. I'm not asking if you're a trained Evidence Response Team  
3 member. I'm asking, if you're the first one on the scene, are  
4 you supposed to call?

5 A. If you are involved in a shooting, you're supposed to call  
6 within an hour, or report the incident within one hour.

7 Q. And are you supposed to pick up the casings?

8 A. No, ma'am.

9 Q. You're not?

10 A. No, ma'am.

11 Q. Where are you taught that?

12 A. I wasn't taught that.

13 Q. Then how do you know you're not supposed to pick up the  
14 casings?

15 A. You're not supposed to. That's evidence to --

16 Q. You're supposed to leave them there, right?

17 A. Yes, ma'am.

18 Q. Why are you supposed to leave them there?

19 A. To conduct an investigation if something happened.

20 Q. Okay. But he was asking you to pick them up?

21 A. Yes, ma'am.

22 Q. Okay. And what happened next?

23 A. I took off towards where the van was parked, and he went  
24 into the station.

25 Q. Okay. Let's go back to your conversation. Did you leave

1 anything out? After he asked you to pick up -- I'm sorry, to  
2 look for the shell casings, did he ask you to let him know if  
3 you found them?

4 A. Yes. He said, "Let me know if you find them."

5 Q. Okay. So did you go to the area where the van was?

6 A. I went westbound towards the -- on the levee, to where the  
7 van was parked.

8 Q. And what did you do when you got there?

9 A. When I got there, I just sat on my vehicle for a while,  
10 made sure nobody was there. Got off the vehicle, started  
11 walking around. And I found four casings in the levee, one  
12 between the levee and the drain canal on the slope. I got them  
13 all and threw them into the drainage canal.

14 Q. Total number of casings you found?

15 A. Five.

16 Q. Okay. Now, how did you know these were his casings?

17 A. Well, when you fire, they look -- they have a yellowish  
18 color that is very bright yellow. So they were the only ones  
19 there. So I assumed they were his casings.

20 Q. And they had that very bright yellow?

21 A. Yes, ma'am.

22 Q. They weren't dusty or anything?

23 A. No, ma'am.

24 Q. They weren't old?

25 A. No, ma'am.



1 Q. Were they .40 caliber casings?

2 A. Yes, ma'am.

3 Q. Okay. And you said you found four of them on the levee.  
4 Is that correct?

5 A. Yes, ma'am.

6 Q. And the fifth one on a slope?

7 A. On the slope between the levee and drain canal.

8 MS. KANOFF: May I approach the witness, Your Honor?

9 THE COURT: Yes, you may.

10 Q. Hand you what's been marked as Government's Exhibit 21.  
11 It's a photograph, correct?

12 A. That's correct.

13 Q. Okay. At some point in time after this case was under  
14 investigation, did you go with Special Agent Sanchez and show  
15 him where you found the shell casings?

16 A. Yes, ma'am.

17 Q. Did you and he set out, or based on -- excuse me, were you  
18 indicating that -- you found the casings. Did he put markers?

19 A. Yes, ma'am.

20 Q. And there were photographs taken?

21 A. Yes, ma'am.

22 Q. With regard to Government's Exhibit Number 21, is that a  
23 photograph with the markers that you, with the assistance of  
24 Agent Sanchez, placed on the levee?

25 A. Yes, ma'am.

1 Q. And let's go through some of the verbiage that's on here.  
2 The location of Aldrete-Davila's van, there's an area. Is that  
3 a fair and accurate representation of where the van was?

4 A. Yes, ma'am.

5 Q. The words Jess Harris Road with an arrow, is that a fair  
6 and accurate representation of Jess Harris Road?

7 A. Yes, ma'am.

8 Q. The arrow that points to the Fabens port of entry, is that  
9 the direction of the Fabens port of entry?

10 A. That's correct.

11 Q. The legend that says levee road, is that, in fact, the  
12 levee road?

13 A. That's correct.

14 Q. The legend that says south, is it pointing in a southerly  
15 direction?

16 A. Yes, ma'am.

17 Q. And the location where Art Vasquez picked up the four  
18 expended bullet cartridges?

19 A. That's correct.

20 MS. KANOFF: We would ask that Government's 21 be  
21 admitted into evidence.

22 THE COURT: Any objections?

23 MR. PETERS: No objection.

24 MR. ANTCLIFF: No objection.

25 THE COURT: 21 will be admitted.

1 Q. (By Ms. Kanoff) Okay. Agent Vasquez, if you could take  
2 your pointer. And where was the van?

3 A. Right in this red spot right there.

4 Q. And where did you find the casings?

5 A. I think it was one, two, three, four inside this red  
6 circle.

7 Q. Is that -- that's approximately where you found them, in  
8 your memory?

9 A. Yes, ma'am.

10 Q. When Agent Sanchez first talked to you, it was March 11, I  
11 think -- no, March 18th, if you recall?

12 A. I don't recall. More or less during that time.

13 Q. Do you remember what the date was when you went out to show  
14 him the casings?

15 A. I don't remember.

16 Q. But was it within a month of the incident?

17 A. Yes.

18 Q. Approximately?

19 A. Yes, ma'am.

20 Q. So you had -- your memory wasn't failing at that time?

21 A. No, ma'am.

22 Q. And you picked those casings up. And with your arrow,  
23 could you show what you did with them? That picture might not  
24 be the best.

25 A. Okay. I picked them up, went down the slope close to the

1 edge of the drain canal, continued, north side of the levee,  
2 and tossed them into the drainage canal. And I just saw them  
3 go inside.

4 Q. You watched them sink?

5 A. Yes, ma'am.

6 Q. Then you said you -- there's just four depicted in that  
7 photograph. Was there another one?

8 A. Yes, ma'am.

9 MS. KANOFF: May I approach the witness, Your Honor?

10 THE COURT: Yes, you may.

11 Q. I'm going to hand you what's been marked as Government's  
12 Exhibit Number 22, another photograph. Is this photograph a  
13 fair and accurate representation of the location of the fifth  
14 casing that you located?

15 A. That's correct, ma'am.

16 Q. There's a legend on it, approximate location where Art  
17 Vasquez found four casings on the levee road, and one casing on  
18 the north levee, correct?

19 A. That's correct.

20 Q. Now, the north slope is the United States side?

21 A. That's correct, ma'am.

22 Q. So the casings was on the north side, then, not the left  
23 side. Is that correct?

24 A. That's correct.

25 MS. KANOFF: We would ask that Government's Exhibit 22

1 be admitted into evidence.

2 THE COURT: Objections?

3 MR. PETERS: No objection.

4 MR. ANTCLIFF: No objection.

5 THE COURT: All right. Government Exhibit 22 will be  
6 admitted at this time.

7 Q. (By Ms. Kanoff) Agent Vasquez, again with your pointer,  
8 would you indicate on this photograph where that fifth spent  
9 casing was?

10 A. Right there in that red spot.

11 Q. This is the north side, then. So which casings did you  
12 pick up first?

13 A. The ones on the levee road right here.

14 Q. Okay. And how wide an area did you search for casings for  
15 Agent Compean?

16 A. Well, I started going in circles until I located them  
17 within, probably, 15 feet.

18 Q. Is he a good friend of yours?

19 A. We worked together.

20 Q. But is he a personal friend of yours?

21 A. Well, we never went out, so I don't --

22 Q. So you destroyed the scene for someone that you worked  
23 with?

24 A. Yes, ma'am.

25 MR. ANTCLIFF: Objection, leading.

1 THE COURT: I'll sustain.

2 Q. And then did you throw all five of them at that same time?

3 A. Yes, ma'am.

4 Q. Could you show the jury, from the perspective of this  
5 photograph, where that ditch was that you threw them?

6 A. I walked down towards the drain canal, and when I got to in  
7 this area, I threw them into the canal.

8 Q. And you said you watched until they disappeared. Is that  
9 correct?

10 A. Yes, ma'am.

11 Q. What did you do next?

12 A. I got my personal cell and I called the station, and I  
13 asked for Agent Compean.

14 Q. Why did you do that?

15 A. Just to let him know that I had found the casings and I  
16 threw them away.

17 MS. KANOFF: Approach the witness, Your Honor?

18 THE COURT: You may.

19 Q. I'm going to hand you what's been marked as Government's  
20 Exhibit 96. Is this part of your cell phone bill?

21 A. Yes, ma'am.

22 Q. And there's something circled on that, correct?

23 A. Yes, ma'am.

24 Q. And what does the circle indicate?

25 A. That's the call that I made to the station that day.

- 1 Q. Okay. And what time did you make that call?
- 2 A. 2:37 p.m.
- 3 Q. On February 17, 2005?
- 4 A. That's correct, ma'am.
- 5 Q. What was the purpose of that phone call?
- 6 A. Just let him know that I had found those five casings, that
- 7 I put them in into the canal.
- 8 Q. Let who know?
- 9 A. Excuse me?
- 10 Q. Who were you going to let know?
- 11 A. Agent Compean.
- 12 Q. When you called the station, did he answer?
- 13 A. No, somebody else answered.
- 14 Q. You know who answered?
- 15 A. No, ma'am.
- 16 Q. And did you ask for Agent Compean?
- 17 A. Yes, I was transferred to him.
- 18 Q. What exactly do you tell him?
- 19 A. "Hey, I found those casings, and I just got rid of them."
- 20 Q. What did he say?
- 21 A. "Okay. Later." Then we hung up.
- 22 Q. And then you went and told Mr. Richards you found the
- 23 casings, correct?
- 24 A. No, ma'am.
- 25 Q. You never told anybody, did you?

1 A. No, ma'am.

2 Q. Until the investigation in this case began, did you tell  
3 anyone that you knew that Agent Compean had expended 14 shell  
4 casings on February 17, 2005?

5 A. No, ma'am.

6 Q. Why not?

7 A. I was under the wrong impression that he was going to  
8 report the incident. And that I was going to be called at the  
9 time, or after.

10 Q. Why were you under the wrong impression?

11 A. Because when I read the -- I didn't -- when you're not the  
12 case agent, you don't usually have to do anything with the  
13 paperwork, on the I-44, which is the report for the incident.  
14 I wasn't aware of what they had put in this report, so I didn't  
15 know anything about it. Until I was called to the office of  
16 OIG, when I requested a copy of that and I saw there wasn't  
17 anything regarding the shooting.

18 Q. Let's go back. What's an I-44?

19 A. It's a report for seizure and of contraband when you pick  
20 it up from --

21 Q. And what -- did you -- why -- you said you thought he was  
22 going to report the shootings, and then you talked about an  
23 I-44. Do you report a shooting on an I-44?

24 A. No, ma'am.

25 Q. You can put anything on an I-44, right?



1 A. Yes, ma'am.

2 Q. But, in addition to that, is there another report that has  
3 to be made if you discharge your weapon?

4 A. The SIR, significant incident report.

5 Q. But the individual agent who discharges their weapon, are  
6 they responsible for filling out that report, or is a  
7 supervisor responsible?

8 A. It has to be an oral report, not in writing.

9 Q. So if an agent discharges the weapon, he is required to  
10 make an oral report?

11 A. That's correct.

12 Q. They don't have to fill out any paperwork?

13 A. No, ma'am.

14 Q. What was it that you assumed Agent Compean would do since  
15 you knew he had discharged his weapon 14 times?

16 A. Since they were senior agents, I thought that, you know,  
17 they were going to talk to somebody about it.

18 Q. Okay. You just -- who was "they"?

19 A. Agent Ramos and Compean. Because they were the ones on  
20 that area.

21 Q. Okay. And you didn't find out that that didn't happen  
22 until you were interviewed by Agent Sanchez. Is that right?

23 A. That's correct, ma'am.

24 Q. When -- you know Supervisor Richards pretty well. I mean,  
25 how long had he supervised you?

1 A. About two years.

2 Q. How does he feel about following the rules?

3 MR. ANTCLIFF: Object, calls for speculation.

4 THE COURT: I'll sustain.

5 Q. Okay. Has agent -- Supervisory Agent Richards ever  
6 discouraged you from following the rules?

7 A. No, ma'am.

8 Q. Have you -- has he ever indicated to you that you should  
9 not fill out paperwork?

10 A. No, ma'am.

11 Q. Has he ever indicated to you that filling out paperwork was  
12 too much of a problem for him?

13 A. No, ma'am.

14 Q. What is his attitude in that regard?

15 A. He's meticulous about paperwork.

16 Q. I'm sorry?

17 A. He's very meticulous about paperwork, and he wants to make  
18 sure, every time, everything is done the proper way.

19 Q. You were talking about Agent Compean. Is he here in the  
20 courtroom?

21 A. Yes, ma'am.

22 Q. Would you identify him, where he is at this time and what  
23 he's wearing?

24 A. That's him.

25 Q. Standing up?

1 MS. KANOFF: Let the record reflect that witness has  
2 identified the defendant.

3 THE COURT: It will so reflect.

4 Q. You testified on that day Agent Ramos was on the south side  
5 of the levee, across the levee down to the ditch, correct?

6 A. Towards the levee, yes, ma'am.

7 Q. And is that agent in the courtroom?

8 A. Yes, ma'am.

9 Q. Would you identify him please, where he's sitting and --

10 A. That's him.

11 MS. KANOFF: May I have a moment?

12 Pass the witness.

13 THE COURT: Mr. Peters, go ahead.

14 MS. KANOFF: I'm trying to get out of the way.. I'm  
15 not very meticulous about paperwork.

16 THE COURT: That's fine.

17 MS. KANOFF: I was trying to get out of the way.

18 MR. PETERS: Could we have the lights on?

19 THE COURT: Yes.

20 CROSS-EXAMINATION

21 BY MR. PETERS:

22 Q. Good afternoon, Agent Vasquez, my name is Steven Peters,  
23 and I represent Agent Ramos. You and I have never met or  
24 spoken before, have we?

25 A. No, sir.

1 Q. Now, you were -- when you first received the radio traffic  
2 that initiated your action on this day, you were on patrol, and  
3 you were on the levee road, correct?

4 A. That's correct, sir.

5 Q. And that would be south of the Sierra Delta ditch that you  
6 were talking about, right?

7 A. Yes, sir.

8 Q. Okay. Agent Compean was south of the Sierra Delta ditch,  
9 correct?

10 A. When the radio traffic was on, I don't know where he was  
11 at. He was about seven to eight miles away from me.

12 Q. Okay. And when you got a radio traffic from Compean, he  
13 told you there was a van loading up around the 76 area, right?

14 A. He said a van leaving the area.

15 Q. And he also said -- he gave code 1046, right?

16 A. No. He just said the van is leaving the 76.

17 Q. So you don't remember him saying 1046?

18 A. See, when we went over the recording of that incident, we  
19 didn't see any 1046 at that time, I mean, on the report.

20 Q. Well, do you remember giving a statement on March 18 to  
21 Agent Chris Sanchez?

22 A. Yes, sir.

23 Q. Do you recall saying that you were on patrol on that day in  
24 a marked unit on the levee when you heard radio traffic to the  
25 effect there was a 1046 in progress?

1 A. That's correct, sir.

2 Q. So you did hear the 1046?

3 A. That was the purpose of that listening to that tape,  
4 because I thought I heard a 1046. But when we went back and  
5 listened to the tape, it wasn't there.

6 Q. You didn't hear that on the tape?

7 A. No.

8 Q. So this statement, your first statement on March 18th,  
9 would be inaccurate?

10 A. On that part, yes.

11 Q. Okay. Let me ask you this, what is it that Agent Compean  
12 said on the radio that made you leave your post where you were  
13 and head for the Fabens area?

14 A. The -- well, actually, the whole year in Fabens is busy for  
15 drug smuggling, and that particular area close to the Stubbs  
16 Compound, they use that route a lot to get drugs across into  
17 the United States.

18 Q. So what exactly was it that Agent Compean said that made  
19 you leave your post and go chasing somebody you thought was  
20 bringing drugs into the United States?

21 A. The fact that he mentioned there was a van leaving that  
22 area at a high rate of speed.

23 Q. Okay. And at that time, not only did you leave where you  
24 were and go look for the van, but, essentially, all the field  
25 Border Patrol officers in that section who were on duty at that

1 moment did so?

2 A. Yes, sir.

3 Q. Okay. And the reason they did so was because they believed  
4 there was narcotics trafficking or alien smuggling going on,  
5 correct?

6 MS. KANOFF: Objection. He can say what he believes.

7 THE COURT: I'll sustain.

8 Q. That's why you did, right?

9 A. Yes, sir.

10 Q. And it was the duty of every agent in that area, if there  
11 were an incident like this which was as you imagined it to be,  
12 to leave what they were doing and go try to chase down this  
13 van, correct?

14 A. That's correct.

15 Q. And that's why they all did it, right?

16 MS. KANOFF: Again, Your Honor, speculating what  
17 other -- motivation of others.

18 THE COURT: I'll sustain.

19 Q. Okay. You went to the C.C. Bills gate, and you were the  
20 one who left it unlocked, correct?

21 A. That's correct.

22 Q. And then you went and you drove down, I believe you said,  
23 Island Road?

24 A. Westbound on Wingo Reserve all the way to Rawls and  
25 intersection of Island Road.

1 Q. And then you got to Jess Harris?

2 A. From Island Road and Rawls, I went eastbound towards Jess  
3 Harris.

4 Q. And when you get to the Jess Harris intersection, you  
5 turned to the right so you were facing --

6 A. To my left.

7 Q. Left?

8 A. To the left.

9 Q. So you turned facing south?

10 A. So I was facing north.

11 Q. Okay. You turned so you were facing north on Jess Harris  
12 Road?

13 A. Yes, sir.

14 Q. And why did you stop there?

15 A. Because at the time they were saying he had already passed  
16 the S curve, or going towards the S curve. And that's the only  
17 route he could have taken.

18 Q. By this time, you already heard on the radio he had turned  
19 around and was heading back south toward the border?

20 A. Yes, sir.

21 Q. How long did it take you from the time you first heard  
22 Agent Compean's report until the time that you got to Jess  
23 Harris Road?

24 A. If I follow the route that I followed that day?

25 Q. Yeah. How long did it take you, in fact?

1 A. Probably about 10 minutes, 15 minutes at the most.

2 Q. Okay. And then, as you waited there, pretty soon these  
3 vehicles start coming down Jess Harris Road heading south?

4 A. That's correct, sir.

5 Q. The first vehicle was the van, correct?

6 A. That's correct.

7 Q. Did the van -- were you parked on the shoulder of the road,  
8 or in the roadway?

9 A. I was half in the paved road and half on the dirt road.

10 Q. When the van went by you, did it stay in its lane?

11 A. He'd -- no, he just went straight on his lane.

12 Q. He did not veer toward you?

13 A. Not that I remember.

14 Q. Okay. And there were two vehicles behind him, right?

15 A. That's correct, sir.

16 Q. They had their emergency lights on?

17 A. Yes, sir.

18 Q. And, after these vehicles went by you, you made a U-turn  
19 and started following, right?

20 A. That's correct, sir.

21 Q. How close did you follow the second vehicle, the vehicle  
22 that was in the middle that was ahead of you?

23 A. It was probably 40 yards or more, because they were going  
24 so fast I couldn't stay with them.

25 Q. Was 40 yards a safe distance?



1 A. No, sir.

2 Q. What would have been a safe distance?

3 A. At least ten car lengths.

4 Q. And on what do you base that ten car lengths' estimate?

5 A. It's based on the speed. It's supposed to be a vehicle  
6 every ten miles.

7 Q. Well, you weren't going 100 miles an hour, were you?

8 A. No, sir.

9 Q. So how fast -- I believe you said you were going 50,  
10 60 miles an hour?

11 A. That's an estimate. It's hard to tell how far they were  
12 going for.

13 Q. This is after the S curve, right?

14 A. Yes, sir.

15 Q. What is the speed limit right in there?

16 A. I don't remember.

17 Q. Okay. When you -- and the reason you had to go over there  
18 when you heard this report that made you believe there is  
19 activity of either alien smuggling or drug smuggling was  
20 because, although your primary duty as a Border Patrol agent is  
21 to defend the borders against violations of immigrations laws,  
22 it is also your duty to protect the borders of importation of  
23 drugs, correct?

24 A. That's correct, sir.

25 Q. Okay. Did you have to fall farther back when you got onto

1 the dirt portion of the road?

2 A. Yes, sir.

3 Q. Okay, how much farther back did you follow?

4 A. It's hard to tell because I couldn't see anything in front  
5 of me. It was just dirt.

6 Q. Did you fall back enough so you weren't blinded by the  
7 dirt?

8 A. Yes, sir.

9 Q. Did you notice whether the vehicles in front of you did the  
10 same thing with respect to the vehicles in front of them?

11 A. I couldn't see.

12 Q. Okay. You don't know then?

13 A. No, sir.

14 Q. Okay. When you pulled up -- so you don't know how long  
15 after the first -- the first vehicle arrived and the second  
16 vehicle arrived and the third vehicle arrived, how long -- and  
17 the fourth vehicle was you, correct?

18 A. That's correct.

19 Q. Can you estimate it with any accuracy?

20 A. From the time they passed by me --

21 Q. No, from the -- what I'm asking, when you pulled up to  
22 Sierra Delta to the spot where Jess Harris Road ends, do you  
23 know how long before -- how long it had been since the first  
24 vehicle, the van, had gotten there?

25 A. It's hard to tell because I didn't see him.

1 Q. Was it a matter of minutes? I mean, you saw the dust  
2 cloud, right?

3 A. Yes, sir.

4 Q. And the dust was still in the area when you got there?

5 A. Yes, sir.

6 Q. It hadn't settled yet, right?

7 A. Yes, sir.

8 Q. How long did it take the dust to settle from the vehicle in  
9 front of you?

10 A. When I got there, the dust was just settling. And I got  
11 off my vehicle and went to a complete stop, and the dust was  
12 still settling.

13 Q. Would it be a matter of several minutes or less?

14 A. Several minutes.

15 Q. Five minutes, or less than that?

16 A. It's hard to tell.

17 Q. How far is it, by the way, from the spot where you started  
18 to join this caravan to the spot where it ended?

19 A. Approximately 200, 250 yards, probably.

20 Q. 200, 250 yards. How fast were these vehicles going once  
21 they got on the dirt?

22 A. It's hard to tell. I didn't see it.

23 Q. Okay. 250 yards would only take a few seconds at 30 miles  
24 an hour, wouldn't it? Less than a minute, wouldn't it?

25 A. I don't know.

1 Q. Well, 60 miles an hour is a mile a minute. You agree with  
2 that, right?

3 A. Yes, sir.

4 Q. 250 yards is about, what, an eighth of a mile?

5 A. More or less.

6 Q. So at 60 miles an hour, this would have taken a minute, 30  
7 miles an hour, taken 15 seconds at 30 miles an hour?

8 A. In my case, I couldn't see, so I had to slow down. I don't  
9 know if they slowed down, also.

10 Q. It was a very short distance from where you picked them up  
11 to where he stopped?

12 A. Yes, sir.

13 Q. Now you've pulled up. You heard gunshots, correct?

14 A. I was getting off my vehicle, yes, sir.

15 Q. Did you know whose guns were being fired?

16 A. I didn't see any.

17 Q. Okay. Did you know this was a Border Patrol agent's gun  
18 being fired?

19 A. No, sir.

20 Q. Did you know whether it was one gone or more than one gun?

21 A. No, sir, I did not know that.

22 Q. It could have been -- okay. And then you saw Agent Juarez,  
23 right?

24 A. That's correct, sir.

25 Q. Okay. And I believe you said he was just standing there,

1 right?

2 A. That's correct, sir.

3 Q. He didn't appear excited?

4 A. No, sir.

5 Q. He didn't appear to have taken note of the fact that there  
6 was gunfire going on, right?

7 A. Yes, sir.

8 Q. Did this surprise you?

9 A. No, that's why I didn't react, because I -- he was just  
10 standing there. So --

11 Q. Okay. Does it not surprise you to hear gunfire down there  
12 on the river? Is it a common occurrence?

13 A. I probably heard shots, at the most, two or three times, at  
14 the most.

15 Q. Nonetheless, you weren't surprised or shocked on this case,  
16 right?

17 A. Yes, sir.

18 Q. You were surprised or shocked?

19 A. No, I wasn't, I'm sorry.

20 Q. Okay. Okay. Now, Agent Juarez told you that Agents Ramos  
21 and Compean were chasing the driver over on the vega, right?

22 A. Yes, sir.

23 Q. Okay. Did he tell you that he had seen Agent Ramos?

24 A. No, sir.

25 Q. And, at that point, you started looking in the van, right?

- 1 A. That's correct, sir.
- 2 Q. Did you open the door to the van?
- 3 A. The driver's side.
- 4 Q. Okay. Is there something you could smell when you opened
- 5 the door to the van?
- 6 A. No, sir.
- 7 Q. You couldn't smell marijuana?
- 8 A. No, sir.
- 9 Q. When you got in the van, could you smell marijuana?
- 10 A. I just saw some bundles.
- 11 Q. Okay. Did you know what they were when you saw them?
- 12 A. No, sir.
- 13 Q. And you couldn't smell them?
- 14 A. No, sir.
- 15 Q. And then you say there was a cell phone, correct?
- 16 A. Yes, sir.
- 17 Q. And this cell phone was plugged into a charger. Is that
- 18 correct?
- 19 A. To the cigarette lighter.
- 20 Q. Right. And it was attached to a charging device plugged
- 21 into the cigarette lighter?
- 22 A. That's correct, sir.
- 23 Q. Did you find more than one cell phone in the van?
- 24 A. Just one.
- 25 Q. Is that all there was in the van?

1 A. That's the only one I saw.

2 Q. That was the only one that you discussed with any other  
3 Border Patrol agents?

4 A. I didn't discuss it with anybody.

5 Q. Okay. You just starting going through and looking at  
6 numbers?

7 A. That's correct.

8 Q. Did you find any interesting numbers?

9 A. Yes.

10 Q. What numbers did you find?

11 A. Codes.

12 Q. What do you mean by "codes"?

13 A. They usual.

14 MS. KANOFF: Object as to relevance.

15 THE COURT: All right. Where are we going?

16 MR. PETERS: Just wanting to know what he found on the  
17 cell phone.

18 THE COURT: I'll sustain.

19 Q. (By Mr. Peters) Okay. Now, you and Agent Juarez never had  
20 any conversation about the shots you heard, right?

21 A. Not that I remember, sir.

22 Q. And, in fact, except for the conversation you had later  
23 with Agent Compean on that day, you didn't discuss them with  
24 anybody, right?

25 A. No, sir.

1 Q. Although, in fact, you had a duty to report that you had  
2 heard the gunshots to your superior, correct?

3 A. If you're involved in the gunshots, yes. I wasn't involved  
4 in the gunshots.

5 Q. If you observe it, you're --

6 A. Shooting -- I'm sorry.

7 Q. If you observe a gun being discharged, you're to report  
8 that as well?

9 A. Yes, but I didn't observe that. I was told that there was  
10 a gun discharge, which is -- to me, is different.

11 Q. Well, you heard the gunfire.

12 A. Yes, but I didn't see anything.

13 Q. So your understanding is, if you hear a gunshot you don't  
14 have to report it, only if you see it?

15 A. It could be on the Mexican side. What is the purpose of  
16 reporting it?

17 Q. Okay. Now, did you hear an agent tell Agent Richards that  
18 Compean had been assaulted?

19 A. When Agent Richards was talking to us, somebody mentioned  
20 to him that he was -- he had been hit or assaulted, something  
21 to that effect.

22 Q. Okay. And that occurred within your hearing, right?

23 A. Yes, sir.

24 Q. Okay. I want to draw your attention to a few minutes  
25 later. When -- or sometime after this. How long after this



1 was it that you encountered Agent Compean at the C.C. Bills  
2 gate?

3 A. Can you repeat the question again, please?

4 Q. How long after you arrived at the Sierra Delta pursuant to  
5 this case was it that you encountered Agent Compean at the C.C.  
6 Bills gate?

7 A. When I went back to the van?

8 Q. You just testified that after you pursued this line of  
9 vehicles --

10 A. Okay.

11 Q. -- and got down to the ditch where the van was and looked  
12 at the cell phone, then you -- then you left, and some while  
13 after that you encountered Agent Compean at the CC Bills gate,  
14 right?

15 A. That's correct.

16 Q. How long was it after this that you encountered him?

17 A. It's hard to tell because I made a call 237. I think  
18 that's what the report shows. And --

19 Q. 237 is when you made the call to Agent Compean?

20 A. I'm trying to think how long it was when I saw him, and  
21 then I went to the bank.

22 Q. Was a matter of -- just -- would have been a matter of few  
23 minutes, I take it, if you were calling him to report that you  
24 picked up the casings at 2:37. This was about an hour after  
25 this incident at the river, at the river was when you were

1 calling him. Is that correct?

2 A. Probably within 20 minutes from the last time that I saw  
3 him from C.C. Bills.

4 Q. So when you encounter Compean Agent Compean he was  
5 leaving -- he was still on the south side of the ditch where he  
6 had been when you pulled up to the scene where the van was,  
7 right?

8 A. That's correct.

9 Q. So, by this time, you're on the north side of the ditch,  
10 Agent Ramos is on the north side of the ditch, his vehicle is  
11 on the north side of the ditch, and Agent Juarez is on the  
12 north side of the ditch, but Agent Compean and, I believe,  
13 Yrigoyen are on the south side of the ditch?

14 A. That's right.

15 Q. So Agent Compean -- did it appear to you that Agent Compean  
16 was coming from the scene and going to the C.C. Bills gate so  
17 he could go back to the Fabens Station?

18 A. He wasn't there when that happened. I didn't see him.

19 Q. Okay. Agent Compean was not with Agent Ramos at the time  
20 that you encountered him. Is that correct?

21 A. That's correct.

22 Q. At the C.C. Bills gate?

23 A. That's correct.

24 Q. Did Agent Ramos participate in that conversation?

25 A. No, sir.

1 Q. Did Agent Ramos ask you to pick up any shells?

2 A. No, sir.

3 Q. Agent Ramos never discussed the shooting incident with you?

4 A. No, sir.

5 Q. And Agent Ramos never discussed not to report the shooting  
6 incident to any superior?

7 A. No, sir.

8 Q. Now, prior to the time that -- let me back up. On this --  
9 on the day of this incident, even though you did not report the  
10 firing of the gun, you were -- you weren't trying to hide  
11 anything, were you, by not reporting that you heard gunfire?

12 A. Well, again, you have to report it if you witness it.

13 Q. Okay. Your opinion, then, is, you didn't witness it,  
14 right?

15 A. Yes, sir.

16 Q. Okay. Now, prior to the time you came to testify to today,  
17 you were called or contacted or attempted to be contacted by  
18 Freddie Bonilla. Is that correct?

19 A. I don't know who that person was. I just saw a number on  
20 my caller ID that I didn't recognize. I didn't answer the  
21 phone. And I also received a letter. No names, nothing.

22 Q. You did not respond?

23 A. No, sir.

24 Q. Why?

25 A. I talked to Mr. Chris Sanchez from OIG, and I asked him if

1 I had to respond to the call. He said, "It's really up to  
2 you." So I chose not to do that.

3 Q. Why didn't you want to?

4 A. Because I didn't want to talk to anybody.

5 Q. Is there a reason?

6 A. No.

7 MS. KANOFF: Objection, asked and answered.

8 THE COURT: I'll overrule. He can answer.

9 Q. Why didn't you want to talk to --

10 A. I just didn't want to talk to him.

11 Q. And you made the assumption on that day that, as far as the  
12 gunfire, that Agent Compean was going to report it, correct?

13 A. That's correct, sir.

14 Q. Now, if you believed Agent Compean was going to report the  
15 gunfire, why did you pick up the shells?

16 A. Stupid, I guess. I wasn't thinking right.

17 Q. What were you thinking?

18 A. I wasn't thinking, I guess.

19 Q. You must have been thinking something. Agent Compean's  
20 testified he's not a close friend of yours.

21 A. Yes, sir.

22 Q. Did he tell you why he wanted to pick up the shells?

23 A. No.

24 Q. Did you think that that was going to interfere with an  
25 investigation?

1 A. I didn't think that at the moment.

2 Q. You didn't think anything about it at all?

3 A. No, sir.

4 Q. And he didn't tell you, by the way -- Agent Compean tell  
5 you when he told you that he had to fire his weapon at an  
6 alien, he didn't tell you that he hit the alien, did he?

7 A. No, sir.

8 Q. He didn't tell you that the alien had been hit at all, did  
9 he?

10 A. No, sir.

11 MR. PETERS: Pass the witness.

12 THE COURT: Is it Ms. Ramirez, or --

13 MS. KANOFF: He's not here.

14 MR. ANTCLIFF: Go ahead, Mr. Antcliff.

15 CROSS-EXAMINATION

16 BY MR. ANTCLIFF:

17 Q. Good afternoon, sir.

18 A. Good afternoon.

19 Q. Did I understand you to say that you have reviewed a  
20 transcript of the radio traffic on February 17, 2005 for the  
21 incident we've been talking about?

22 A. That's correct.

23 Q. So you're aware that the first call from Agent Compean came  
24 down at about 1311 that day, and the call to resume normal  
25 radio chatter was about 1328 that day. Is that right?

1 A. I don't have the transcript with me, so I don't know.

2 MR. ANTCLIFF: One moment.

3 THE COURT: It's actually been admitted as an exhibit,  
4 if you want it.

5 MR. ANTCLIFF: Okay.

6 MS. KANOFF: I have it.

7 MR. ANTCLIFF: Is that the actual one?

8 MS. KANOFF: Yeah.

9 MR. ANTCLIFF: May I approach?

10 THE COURT: You may.

11 Q. (By Mr. Antcliff) Sir, I'm going to show you Government's  
12 Exhibit 92 and ask you if you've seen that before.

13 A. Yes, I have.

14 Q. What it is?

15 A. This is the transcript from the transmission that occurred  
16 that day of the incident.

17 Q. Okay. When does the first call from Agent Compean come  
18 out? It's on the little sheet attached to the front.

19 A. 1311.

20 Q. Okay. And later on in the transcript the call from  
21 Supervisor Richards to resume normal radio traffic is about  
22 1328. Is that right?

23 A. 1328, that's correct.

24 Q. Would you agree with me that's a span of about 17 minutes?

25 A. That's correct.

1 Q. In the first statement that you gave on March 18, 2005, you  
2 said that you heard Agent Compean call out a 1046 on a  
3 full-sized van. Is that right?

4 A. That's correct.

5 Q. Okay. Then I understand you to say you must have been  
6 mistaken because, when you read the transcript, the 1046 is not  
7 on there?

8 A. That's correct.

9 Q. Does local radio traffic, car-to-car radio traffic, record  
10 on the repeater?

11 A. I don't know, sir.

12 Q. Okay. So do you know whether or not Agent Compean made the  
13 1046 call on local as opposed to repeater?

14 A. I don't know, sir.

15 Q. Okay. It could have been, you just don't know?

16 A. I don't know.

17 Q. Very well. At the time that you heard that call, you were  
18 approximately seven to eight miles away. Is that what I  
19 understand?

20 A. More or less.

21 Q. Okay. And something made you leave. If it was just a  
22 normal, "Hey, there's a van traveling here," you probably would  
23 have stayed where you were. Is that right?

24 A. Can you ask the question again, please?

25 Q. Something in the call that Agent Compean put out over the

1 radio made you leave your area --

2 A. That's correct.

3 Q. -- of responsibility?

4 A. That's correct.

5 Q. If it had just been a call, "Hey, there's a van moving  
6 along here," you probably would have stayed where you were?

7 A. That's correct.

8 Q. Okay. So you proceed to the C.C. Bills gate, right?

9 A. That's correct.

10 Q. And, as I understand your testimony, when you arrive at  
11 that gate, you unlock it, correct?

12 A. That's correct.

13 Q. And you had to cross that gate to get to where you were  
14 your area of responsibility was that day, the first time,  
15 right?

16 A. That's correct.

17 Q. So you got out of your van when you went to where you had  
18 been sitting and unlocked the gate, right?

19 A. That's correct.

20 Q. And you relocked it when you crossed through the gate?

21 A. That's correct.

22 Q. This time, when you leave in response to Agent Compean's  
23 call, you don't relock the gate after you unlock it and get  
24 out?

25 A. That's correct.



1 Q. When you get back to the gate later it's locked again,  
2 true?

3 A. That's correct.

4 Q. You don't know who locked it that day?

5 A. No, ma'am.

6 Q. Could have been any Border Patrol agent, because you-all  
7 have master keys?

8 A. Yes, but there's a always a worker from the irrigation  
9 commission or our people working on the levee. Sometimes they  
10 close it, too.

11 Q. So it's not just Border Patrol agents who have a key to  
12 these gates; a whole lot of people do?

13 A. To those locks, only us have keys. But if it's open, they  
14 close it for us sometimes.

15 Q. I see. When you get to -- I think it's Jess Harris Road,  
16 you talked about where you were facing north and waiting to see  
17 what happens. Do you recall that?

18 A. That's correct.

19 Q. You see a van and two Border Patrol vehicles go past your  
20 location, correct?

21 A. That's correct.

22 Q. They're moving quick?

23 A. That's correct.

24 Q. They have -- the two Border Patrol vehicles have their  
25 emergency lights on, don't they?

1 A. That's correct.

2 Q. You make a U-turn and head south behind them, correct?

3 A. That's correct.

4 Q. While you are on the paved road, are you moving pretty  
5 fast?

6 A. I was doing over 40.

7 Q. Okay. Were you staying up with them on the paved road?

8 A. No, sir.

9 Q. So they -- all three of those vehicles were moving much  
10 faster than you were. Is that right?

11 A. It's hard to tell. They were already ahead of me, so I  
12 don't know how fast they were going.

13 Q. I understand it took you some time to turn around and begin  
14 following them, right?

15 A. That's correct.

16 Q. How long?

17 A. Probably less than a minute to make a U-turn and go after  
18 them.

19 Q. You've been involved in drug seizures before at the border?

20 A. That's correct, sir.

21 Q. Can you estimate for me how many?

22 A. On vehicles chases, two that I was the case agent. I  
23 assisted probably about four or five.

24 Q. Okay.

25 A. And other ones on foot chases.

1 Q. What kind?

2 A. Full chase foot chases.

3 Q. I understand.

4 A. When they come across carrying marijuana on their backs.

5 Q. When there's a callout and you're involved and you see a  
6 suspected drug smuggler, you get kind of excited, right?

7 A. That's correct.

8 Q. You want to catch them?

9 A. That's correct.

10 Q. It's your job?

11 A. That's correct.

12 Q. To -- okay. So when you're following along, eventually you  
13 hit a dirt road. Jess Harris turns into a dirt road, is that  
14 correct?

15 A. That's correct.

16 Q. And you slow down because of the volume of dust in front of  
17 you?

18 A. That's correct.

19 Q. Could you still see the emergency lights through the dust?

20 A. Don't remember, sir.

21 Q. Okay. Both vehicles, when they went by you, had emergency  
22 lights on, correct?

23 A. That's correct.

24 Q. At any point you get to the drainage ditch -- I guess which  
25 is the termination of Jess Harris Road, correct?

1 A. That's right.

2 Q. There are several vehicles already there, at lease three,  
3 right?

4 A. That's correct.

5 Q. And there are no drivers in those vehicles that you can  
6 see?

7 A. That's correct..

8 Q. Okay. You see Agent Juarez's vehicle, right?

9 A. That's correct.

10 Q. By the way, you're friends with Agent Juarez?

11 A. That's correct.

12 Q. To this day, do you carpool with him to work?

13 A. No, sir.

14 Q. Have you in the past?

15 A. Yes.

16 Q. Do you see him socially, on occasion?

17 A. I haven't seen him in a year.

18 Q. During the period of time you were on administrative leave?

19 A. Yes, sir.

20 Q. Prior to that, you saw him socially as well?

21 A. That's correct.

22 Q. When you see his vehicle at this location, is the front  
23 door open?

24 A. Of his vehicle?

25 Q. Yes.

1 A. I don't remember.

2 Q. Did you see him?

3 A. I saw him standing right next to the van, the gray van.

4 Q. He was right next to the gray van?

5 A. Yes, sir.

6 Q. Okay. Did you see Agent Compean's -- excuse me Ramos'  
7 vehicle when you arrived?

8 A. Well, I saw it because it stands up because it's a tall  
9 truck. It was Agent Juarez's Tahoe and Agent Ramos' pickup  
10 truck.

11 Q. They were in a line from where the van lands at the edge of  
12 the ditch. What's the next vehicle?

13 A. It was the pickup truck, and then the Tahoe.

14 Q. So you have the van at the edge of the ditch, then you have  
15 the pickup truck, which is Agent Ramos' vehicle. Then you have  
16 the Tahoe, which is Agent Juarez's vehicle. Is that right?

17 A. They were more or less in that order, but not necessarily  
18 aligned to each other, you know, behind.

19 Q. But they were -- let's see.

20 MR. ANTCLIFF: One moment, Your Honor. This one will  
21 work, I guess.

22 Q. Do you see Government's Exhibit 9 on the big screen in the  
23 back of the courtroom?

24 A. That's correct.

25 Q. What is that a picture of? Can you see it?

1 A. It looks like a Dodge Ram pickup truck.

2 Q. What are we looking at?

3 MR. ANTCLIFF: Can I approach?

4 THE COURT: Sure.

5 Q. Take a look at this.

6 THE COURT: I think he's looking in the vehicle in the  
7 back.

8 A. There's two vehicles. A Dodge Ram or a Ford. Those are  
9 what we use. There's two vehicles there.

10 Q. What's that big gray vehicle in the foreground?

11 A. It's a Ford van.

12 Q. Okay. Is that the vehicle that the alien was driving the  
13 day you saw him?

14 A. That's correct.

15 Q. Looking at the position of that van, can you tell me -- you  
16 have the laser pointer, right?

17 A. Yes, sir.

18 Q. Where you saw next Agent Ramos' vehicle?

19 A. It was -- Jess Harris runs north from here, more or less  
20 from this area, and there was another vehicle further back.

21 Q. You did not see any vehicle, Border Patrol vehicle, right  
22 up on the ditch next to the van, did you?

23 A. Don't remember that, sir.

24 Q. Okay. Agent Juarez is standing outside of his vehicle next  
25 to the gray van driver's side door when you arrived. Is that

1 right?

2 A. That's correct.

3 Q. You don't see Agent Ramos anywhere?

4 A. No, sir.

5 Q. Is the door to his vehicle open?

6 A. I don't remember, sir.

7 Q. Okay. You get out of your vehicle and go where?

8 A. I start moving towards the van where Agent Juarez was

9 standing.

10 Q. Okay. And can you see Agent Compean's vehicle on the other

11 side of the ditch?

12 A. It was on the levee.

13 Q. Right. And it's on the south side of the ditch. Is that

14 right?

15 A. That's correct.

16 Q. Okay. Did you see him?

17 A. No, sir.

18 Q. You went to the van, I guess?

19 A. That's correct.

20 Q. You opened the driver's side door to the van?

21 A. That's correct.

22 Q. You looked inside the van?

23 A. That's correct.

24 Q. Did you check it for weapons under the seats?

25 A. No, sir.

1 Q. Are you trained to look for weapons?

2 A. We're trained to look for anything that is in a vehicle,  
3 but not necessarily for weapons.

4 Q. Did you look under the seats at all?

5 A. No, sir.

6 Q. You find a cell phone between the seats while you're  
7 looking in the driver's side door, right?

8 A. That's correct.

9 Q. You looked in the back of the van?

10 A. Yes.

11 Q. You saw the bundles of what you believed to be marijuana?

12 A. Yes, sir.

13 Q. Have you ever smelled marijuana before?

14 A. Yes, sir.

15 Q. And your testimony is that you could not smell marijuana on  
16 that day?

17 A. No, I didn't smell it.

18 Q. Did you -- you recognize the bundles, correct?

19 A. Yes, sir.

20 Q. You got the phone, and I guess you spend lot of time with  
21 the phone, now standing right outside the van. Is that right?

22 A. That's correct.

23 Q. Did you walk around the other side of the van and take a  
24 look?

25 A. Don't remember doing that, sir.



1 Q. It's possible you did that; you don't remember?

2 A. Don't remember, sir. Because I stayed with the phone most  
3 of the time.

4 Q. I understand. While you're looking at the phone, you're  
5 scrolling through whatever information you can find?

6 A. Yes.

7 Q. Do you notice whether or not any of the calls are recent?

8 A. I didn't have the chance to find what I was looking for. I  
9 didn't have enough time to get into some of the directory, the  
10 actual directory where you can get that information from.

11 Because, while doing that, Agent Richards and Lance got to the  
12 area and I had to hand the phone over to Agent Medrano.

13 Q. I thought your testimony, though, was that was, pretty  
14 much, all you do was check out the phone.

15 A. Yes, but I didn't get to the part where I could actually  
16 see times and all that. I just saw codes.

17 Q. You saw codes?

18 A. Yes, sir.

19 Q. What does that mean?

20 MS. KANOFF: Objection, Your Honor. If it doesn't  
21 have to do with making a call, it's not relevant.

22 THE COURT: All right. Where are we going?

23 MR. ANTCLIFF: May we approach?

24 THE COURT: Yes.

25 (Attorneys approach the bench out of hearing of Jury.)

1 THE COURT: Where are we going?

2 MR. ANTCLIFF: I don't know where I'm going. Hang on.  
3 Hang on. Chris Antcliff for Mr. Compean. Judge, I think --

4 THE COURT: It's a long week.

5 MR. ANTCLIFF: It has been a long week. Here is where  
6 I'm going: The testimony is that Aldrete-Davila was given a  
7 phone at the time that he got the van.

8 THE COURT: Right.

9 MR. ANTCLIFF: When he crossed the river to come to  
10 the van. His testimony also was that he made no calls on  
11 whatever phone he had.

12 THE COURT: Right.

13 MR. ANTCLIFF: I think that he looked at whatever he  
14 looked at I and wanted to know specifically what he looked at,  
15 because it may impeach the testimony of Aldrete-Davila as to  
16 whether or not he made any calls to the --

17 THE COURT: You can ask him about whether he can tell  
18 if calls had been recently made. But codes, I don't know what  
19 codes have to do with.

20 MR. ANTCLIFF: I don't know until he explains what the  
21 codes are. Maybe there's a time stamp.

22 MS. RAMIREZ: Maria Ramirez. I think it's relevant to  
23 his ability to recall this to test his credibility, because  
24 there are not -- in statements -- he never said in his  
25 statements he even looked at a cell phone.

1           THE COURT: I don't care. I don't mean if you go in  
2 looking to the cell phone. But into the codes, I mean, we're  
3 getting way off. It's late on a Friday, and I don't have a  
4 problem --

5           MR. ANTCLIFF: I'll drop the --

6           THE COURT: I don't have any problems with going into  
7 if you can tell the phone had been recently used, or if he saw  
8 anything that indicated that the phone had been recently used.

9           MR. ANTCLIFF: I want to ask, also, though -- the  
10 codes he's talking about are what drug smugglers use. That's  
11 exactly correct.

12          MS. KANOFF: That's exactly correct. When I  
13 pre-trialed him he was looking for drug smuggler codes.

14          MR. ANTCLIFF: Aldrete-Davila is smuggling a load of  
15 drugs, and he's got a cell phone with codes in it.

16          THE COURT: I understand that. My question is, where  
17 are you trying to go without getting into codes? I think  
18 trying to see if he made a call --

19          MR. ANTCLIFF: Both. Whether or not a recent call was  
20 made by anyone on that phone. And -- I don't know.

21          THE COURT: My concern is, we better get off. Again,  
22 Mr. Aldrete-Davila is not on trial. And everybody knows he's a  
23 got a phone and everybody knows he was transporting the drugs,  
24 but, unless we're getting somewhere that's got to do with this  
25 case, I'm concerned we're going off --

1 MS. KANOFF: Your Honor, it's the basis of my motion  
2 in limine that we are going to be trying Aldrete-Davila instead  
3 of the defendants.

4 THE COURT: I understand.

5 MS. KANOFF: Your Honor, while we're still here, the  
6 doctor is here.

7 MR. ANTCLIFF: I'm happy to take that break.

8 MS. KANOFF: I think -- I don't know if we can finish  
9 and put the doctor on.

10 THE COURT: You think he's going to take a while? How  
11 many pages of notes do you have?

12 MR. ANTCLIFF: About six. But I was listening to  
13 Ms. Kanoff.

14 THE COURT: We're almost done with him, and I just  
15 think this is an inconsistency. If it's starting to get too  
16 late. How long you to anticipate?

17 MS. KANOFF: The doctor will be a fairly short  
18 witness.

19 THE COURT: Let's finish this guy.

20 While the attorneys are up here, does anybody have an  
21 objection to taking a short recess?

22 MS. KANOFF: No, we welcome it.

23 THE COURT: Ladies and Gentlemen of the Jury, it is  
24 about 4:00. We're going to take a short recess. Stand in  
25 recess.

1 (Recess.)

2 THE COURT: You may be seated. All right. Are we  
3 ready to proceed?

4 MR. ANTCLIFF: Yes, ma'am.

5 THE COURT: You may bring in the jury.

6 (Jury enters courtroom.)

7 THE COURT: You may be seated, Ladies and Gentlemen.  
8 You may proceed, Mr. Antcliff.

9 MR. ANTCLIFF: Thank you, Your Honor.

10 BY MR. ANTCLIFF:

11 Q. Sir, before the break we were talking about the cell phone  
12 that you found. When you were taking a look at the information  
13 while you were standing outside the van, did you notice  
14 evidence of recent telephone calls on the cell phone?

15 A. No, sir.

16 Q. Okay. Were you looking for that kind of evidence?

17 A. Basically the codes.

18 Q. Okay. At that time, you knew where Agent Juarez was. Is  
19 that correct?

20 A. Yes, sir.

21 Q. But you didn't know where Agent Ramos or Agent Compean  
22 were?

23 A. No, sir.

24 Q. Okay. I'm going to show you Government's Exhibit Number  
25 28, I guess a photograph of the area where this incident took

1 place. Is that right?

2 A. That's correct.

3 Q. Okay. Do you still have the pointer?

4 A. Yes, sir.

5 Q. You see Jess Harris Road?

6 A. That's correct, sir.

7 Q. I believe Ms. Kanoff asked you if there was a slope on that  
8 road. Is there?

9 A. On Jess Harris?

10 Q. Yes.

11 A. No, sir, not on Jess Harris.

12 Q. It is a flat road?

13 A. That's correct.

14 Q. So when you're arriving, other than the dust, you have an  
15 unobstructed view of what's ahead of you, correct?

16 A. That's correct.

17 Q. As you're driving up to the drainage ditch, is the dust  
18 beginning to settle?

19 A. Yes, sir.

20 Q. And is it -- how long is it before you can see as you're  
21 driving up?

22 A. Seconds.

23 Q. Okay. Where was Agent Compean when you were outside the  
24 van looking at the phone on this photograph?

25 A. He's supposed to be in the vega, as per Mr. Juarez's

1 statement.

2 Q. So you've read Mr. Juarez's statement?

3 A. No. When he told me, he said that they were on the vega  
4 chasing the driver of the van, so, when I was looking at the  
5 phone, they were still on the vega.

6 Q. Where was Agent Juarez?

7 A. He was standing at the edge of the drainage canal.

8 Q. On this map, can you use the laser pointer and point it  
9 out?

10 A. More or less in this area right here.

11 Q. And he is still on the bank, not down in the ditch?

12 A. No, sir.

13 Q. You never saw him go into the ditch that day?

14 A. Never saw him down there.

15 Q. Okay. I'm going to put Government's Exhibit 51B up here  
16 for you to look at. It's another photograph. Do you recognize  
17 this as the general area that we're talking about?

18 A. I can see --

19 MR. ANTCLIFF: May I approach?

20 THE COURT: Yes.

21 Q. Do you recognize that as the general area we're talking  
22 about?

23 A. That's correct.

24 Q. I'm going to put it back up here, and I would ask you to  
25 use the pointer. Tell me, if you can, where Agent Compean was

1 the first time you saw him.

2 A. He was coming back from the vega. More or less this area  
3 towards here.

4 Q. Okay. From your position next to the van, can you see over  
5 the levee?

6 A. No, sir.

7 Q. Anything?

8 A. No, sir.

9 Q. How high is the levee road from the ground that it sits  
10 on --

11 A. Well --

12 Q. It's raised up off the ground?

13 A. Yes, sir, it is.

14 Q. Is it more than the height of a man?

15 A. It's hard to tell.

16 Q. Okay. You just don't know?

17 A. I don't know, sir.

18 MR. ANTCLIFF: One moment, Your Honor.

19 Q. One more question with this picture, I'm sorry. You  
20 testified that you saw the shotgun on the ground when Agent  
21 Juarez pointed it out. Is that right?

22 A. That's correct.

23 Q. Show us where you saw that.

24 A. Probably in this area right here. This general area.

25 Q. Okay. So you're back down here somewhere. Is that right?



1 A. No, sir. I'm further to the west, more or less. More or  
2 less where you're standing.

3 Q. In the bottom right-hand corner in the picture, maybe not  
4 even in picture, that's where you're located, right?

5 A. That's correct.

6 Q. And you look across the ditch and Agent Juarez points out  
7 the shotgun somewhere in this area. Is that correct?

8 A. That's correct.

9 Q. Okay. At this time, when you get out of your car before  
10 you get to the van, you hear multiple gunshots, correct?

11 A. That's correct.

12 Q. They were pretty close together?

13 A. Yes, sir.

14 Q. Did you hear any pause and then another shot?

15 A. No, sir.

16 Q. Did you hear several shots together, and that was it?

17 A. Several shots together, and that was it.

18 Q. You didn't count then?

19 A. No, sir.

20 Q. You have no idea how many shots were actually fired?

21 A. No, sir.

22 Q. You did not see Agent Compean on the levee?

23 A. No, sir.

24 Q. Okay. You didn't hear any voices, people yelling,  
25 "Parate," or, "Stop," anything like that, right?

1 A. No, sir.

2 Q. You never saw the driver of the van at any point after you  
3 stopped, correct?

4 A. No, sir.

5 Q. You didn't see any confrontation between him and Agent  
6 Compean?

7 A. No, sir.

8 Q. Okay. I believe your testimony was that you saw Agent  
9 Juarez walk away from the van, east?

10 A. That's correct.

11 Q. Okay. Do you know where he was going?

12 A. No, sir.

13 Q. You saw him approach the van, open the doors, then walk  
14 away?

15 A. I didn't see him opening the doors.

16 Q. So how close would you estimate he got to the van before he  
17 turned around and walk away?

18 A. Within three or five feet -- yards.

19 Q. I'm sorry?

20 A. Yards, three to five yards.

21 Q. Okay. East, was the driver side of the van?

22 A. Yes, sir.

23 Q. So he's walking away from the driver's side of the van?

24 A. That's correct.

25 Q. Okay. Did you ever see Agent Juarez draw his gun?

1 A. No, sir.

2 Q. You never saw any agents draw their gun that day, did you?

3 A. No, sir.

4 Q. The first time you saw Agents Ramos and Compean they were  
5 coming back up over the levee towards the ditch. Is that  
6 right?

7 A. That's correct, sir.

8 Q. Agent Compean had no need to cross the ditch at that time,  
9 because his vehicle was on the south side by the levee, right?

10 A. That's correct.

11 Q. Okay. Agent Ramos had to come back across the ditch?

12 A. That's correct.

13 Q. Did you see him do that?

14 A. No, sir.

15 Q. Did you see him --

16 A. I saw him close to the levee, but after that I didn't see  
17 him again.

18 Q. You're aware that he is the only agent that crossed that  
19 ditch to get to Agent Compean, right?

20 A. Yes, sir.

21 Q. You certainly did not cross the ditch to go help Agent  
22 Compean, right?

23 A. That's correct.

24 Q. That's even though you heard gunshots, right?

25 A. That's right.

1 Q. You're trained to help agents who are in trouble, correct?

2 A. That's correct.

3 Q. You didn't know whether Agent Compean was in trouble at  
4 that moment, did you?

5 A. That's correct.

6 Q. You did not see Agents Ramos and Compean speaking to each  
7 other as they're walking back. One was in front of the other,  
8 correct?

9 A. Yes, sir.

10 Q. Okay. You leave the scene, the area we were just looking  
11 at, at some point. Can you estimate for me, what time was it  
12 you left?

13 A. I have no idea, sir.

14 Q. Was it after 1328?

15 A. I have no idea, sir.

16 Q. Was Ramos back on the other side of the ditch, the north  
17 side now?

18 A. I didn't see that.

19 Q. Had Agent Richards, Supervisory Agent Richards, left the  
20 scene by the time you leave?

21 A. He left first, and then I left right after him.

22 Q. Your testimony is that you pulled in behind the van and  
23 Agent Juarez. Were you parked fairly well directly behind  
24 Agent Juarez?

25 A. I was close to the west side of the road towards the cotton

1 field.

2 Q. West side of Jess Harris Road?

3 A. That's correct.

4 Q. Did anybody who approached after you park behind you?

5 A. I don't remember, sir.

6 Q. Okay. Do you know where Supervisory Agent Richards parked?

7 A. No, sir.

8 Q. Did you, when you left, have to back up or turn around?

9 A. I had to turn around because I was facing south.

10 Q. And you headed up Jess Harris Road north?

11 A. That's correct.

12 Q. From there, where did you go?

13 A. I got on Wingo Reserve, which is the first intersection on  
14 Jess Harris after the dirt road. I went eastbound towards the  
15 C.C. Bills gate.

16 Q. Okay. And you get back to the C.C. Bills gate and someone  
17 had locked it, so you open it up again?

18 A. Yes, sir.

19 Q. And you go through the gate after you unlock it. And about  
20 that time, Agent Compean is coming up. Is that right?

21 A. I was still on the north side of the gate when he got  
22 there.

23 Q. You were on the north side, headed for the south side?

24 A. Yes, sir.

25 Q. You're going to go back to the levee?

- 1 A. Yes, sir.
- 2 Q. You were on the north side?
- 3 A. I hadn't driven through yet.
- 4 Q. He drove through the gate?
- 5 A. No, he stayed on the south side of the gate.
- 6 Q. It's your testimony that he got out of the car. Is that
- 7 right?
- 8 A. Yes, sir.
- 9 Q. Would today be the first time you're saying he got out of
- 10 his vehicle?
- 11 A. Yes, sir..
- 12 Q. He gets out of his vehicle and you guys have a
- 13 conversation, right?
- 14 A. Yes, sir.
- 15 Q. And you ask him what happened, right?
- 16 A. Yes, sir.
- 17 Q. Specifically, what does he tell you when you ask him what
- 18 happened, right then?
- 19 A. Well, I asked if he was okay. That's when he showed me the
- 20 cut on his hand. And then --
- 21 Q. Let's stop there. He shows you a cut on which hand?
- 22 A. I don't remember which hand.
- 23 Q. One of them?
- 24 A. Yes, sir.
- 25 Q. Does he say anything to you, or just hold it up?

1 A. He just holds it up.

2 Q. Didn't say nothing?

3 A. No, sir.

4 Q. Then what does he say next?

5 A. I asked him, "Were those shots" -- I mean, "gunshots that I  
6 heard?" And that's when he told me that he had to fire some  
7 rounds.

8 Q. Okay. At some point, I believe your testimony is he said,  
9 "That little bitch took me to the ground and threw dirt in my  
10 face"?

11 A. That's correct. That's correct.

12 Q. Okay. He said that pretty much right after he showed you  
13 the cut?

14 A. Yes, sir.

15 Q. Do you recall giving a statement on March 18th in this  
16 case?

17 A. I don't have the report with me. So I'm assuming that's  
18 the date that I went to OIG.

19 Q. Okay. When you went to OIG, did you have a lawyer?

20 A. Yes, sir.

21 Q. At that time, before you gave a statement your lawyer and  
22 the Government's lawyer signed a proffer agreement, right?

23 A. My lawyer was present and there were three investigators  
24 from OIG. But I don't recall seeing an attorney from the  
25 Government.

1 Q. Do you recall signing a proffer letter on that day?

2 A. That's correct.

3 MR. ANTCLIFF: May I approach, Your Honor?

4 THE COURT: You may.

5 MR. ANTCLIFF: I think it's seven or eight.

6 THE COURT: Six.

7 MR. ANTCLIFF: I marked 6, and I think 7. So I'm  
8 going to call it 8.

9 THE COURT: All right.

10 Q. (By Mr. Antcliff) I'm marking a document Defendant  
11 Compean's Exhibit 8. And I would ask you to take a look at it,  
12 sir.

13 (Witness reading the exhibit.)

14 MS. KANOFF: Your Honor, while he's reading the  
15 statement, can Mr. Antcliff and I have a sidebar?

16 THE COURT: You don't need everybody else for this?

17 (Kanoff and Antcliff approach bench.)

18 MS. KANOFF: Mr. Antcliff, in particular, he's got,  
19 evidently, a lot more.

20 MR. ANTCLIFF: I do have more, at that rate he keeps  
21 talking. So I don't mean to stop for the -- I can tell you --

22 A. Ready, sir.

23 Q. (By Mr. Antcliff) Okay. Do you recognize that document,  
24 sir?

25 A. Yes, sir.



1 Q. Is that the proffer letter that you signed, along with your  
2 attorney and the Government's lawyer?

3 A. That's correct, sir.

4 Q. As you understand that document, it gives you immunity for  
5 anything that happened out there that day in exchange for your  
6 truthful cooperation and testimony, right?

7 A. That's correct, sir.

8 Q. You don't believe you committed a crime on February 17,  
9 2005, do you?

10 A. Destroying evidence, I -- I think that's an offense.

11 Q. It's a crime?

12 A. Yes, sir.

13 Q. Destroying evidence?

14 A. Yes, sir.

15 Q. And the evidence you destroyed would be the shells that you  
16 found?

17 A. That's correct, sir.

18 Q. You don't know those shells came from Agent Compean's gun,  
19 do you?

20 A. No, sir.

21 Q. You testified -- your testimony is you found four shells on  
22 top of the levee that were .40 caliber. Is that right?

23 A. That's correct, sir.

24 Q. And you recognize a .40 caliber shell?

25 A. That's correct.

1 Q. Because you carry a .40 caliber weapon?

2 A. That is correct, sir.

3 Q. Which you did not draw on February 17th, correct?

4 A. That's correct.

5 Q. The fifth shell that you found was on the north slope of  
6 the levee. Is that right?

7 A. That's correct, sir.

8 Q. When you got out of the car, your car, and heard the shots,  
9 did you see Agent Compean standing on the levee?

10 A. No, sir.

11 Q. You never saw him fire any shots that day?

12 A. No, sir.

13 Q. You don't know what may have happened before you arrived?

14 A. No, sir.

15 Q. How many shots, if you can estimate, did you hear when you  
16 got out of your car?

17 A. I have no idea. Multiple gunshots.

18 Q. More than 15?

19 A. No, sir.

20 Q. More than five?

21 A. I don't remember, sir.

22 Q. Okay. So that's one crime I guess you committed that day,  
23 in your opinion, destroying evidence, right?

24 A. That's correct, sir.

25 Q. But, other than that, you didn't do anything wrong, in your

1 opinion, on that day, correct?

2 A. Not reporting the incident.

3 Q. Okay. Not reporting the incident is a violation of Border  
4 Patrol policy, correct?

5 A. That's correct, sir.

6 Q. Do you know what the Border Patrol penalty is for violating  
7 that policy?

8 A. No, sir.

9 Q. It could be a suspension. Do you agree with that?

10 A. It could be, yeah.

11 Q. Okay. Any other crimes you committed that day? You've got  
12 one policy violation, and one which you consider as a crime.

13 A. Just that.

14 Q. Okay. So those are the only two you believe you could be  
15 prosecuted for or have an administrative problem with the  
16 Border Patrol, right?

17 A. That is correct, sir.

18 Q. If you don't tell the truth today or in the statements that  
19 you gave under the terms of the immunity agreement, you could  
20 be prosecuted for false statement, correct?

21 A. That's correct.

22 Q. That carries a pretty significant penalty, right?

23 A. Yes, sir.

24 Q. You gave a statement on March 18th at the time you signed  
25 the proffer letter, right?

1 A. That's correct.

2 Q. And, in that statement, did you ever say that Agent Compean  
3 said, "That little bitch took me to the ground and threw dirt  
4 in my face"?

5 A. I don't have the report with me, sir.

6 Q. You don't remember?

7 A. Yeah, I don't remember. But I don't have the report with  
8 me.

9 MR. ANTCLIFF: May I approach, Your Honor?

10 THE COURT: You may.

11 Q. I'm marking this as Defendant Compean's Exhibit 9. And I  
12 would ask you to take a look at it.

13 (Witness reading document.)

14 A. All right.

15 Q. Okay. You've reviewed that document, right?

16 A. That's correct.

17 Q. Is it the statement that you gave to the Government on  
18 March 18, 2005?

19 A. The statement about him saying I was there.

20 Q. Is that document the complete statement you gave to the --

21 A. That's correct, on that date, yeah.

22 Q. All right. Can you tell me if in that statement it says  
23 anything about, "That little bitch took me to the ground  
24 and" --

25 A. It doesn't say.

1 Q. Does not?

2 A. Doesn't say.

3 Q. Would you agree with me that when you gave that statement,  
4 the events of February 17th were a lot closer, or a lot fresher  
5 in your mind than they are today?

6 A. Some things, yes. Some things, no.

7 Q. So some things you remember better today than you did  
8 within a month of the event?

9 A. Some of them, yes.

10 Q. Okay. I believe your testimony is that Ms. -- Agent  
11 Compean told you he had to fire some rounds. I think your  
12 testimony was, on direct, "I had to fire some rounds. I went  
13 through a magazine exchange and I fired some more." Is that  
14 correct?

15 A. Some additional rounds, that is correct.

16 Q. So you hear shots when you get out of the vehicle, right?

17 A. Yes, sir.

18 Q. Do you hear a pause long enough to exchange a magazine?

19 A. No.

20 MS. KANOFF: Asked and answered.

21 THE COURT: Overruled.

22 MS. KANOFF: I'm sorry.

23 MR. ANTCLIFF: I don't think so.

24 Q. (By Mr. Antcliff) You didn't ask a whole lot of questions  
25 about what had gone on of Agent Compean while you were at the

1 C.C. Bills gate, did you?

2 A. That's correct, sir.

3 Q. But you guys did have a small conversation, and he asked  
4 you to pick up shells. Is that right?

5 A. That's correct, sir.

6 Q. And he showed you casings in his hand?

7 A. That's correct, sir.

8 Q. Was that the same hand that had the cut?

9 A. I don't remember.

10 Q. Okay. You also don't know how many were in his hand. Is  
11 that right?

12 A. No, sir, just what he told me.

13 Q. So you go back over there to baby-sit the van, and you see  
14 shells on the levee. Is that right?

15 A. That's correct, sir.

16 Q. And you picked them up and threw them into the ditch?

17 A. That's correct.

18 Q. Did he ask you to throw them into the ditch?

19 A. No, sir.

20 Q. He had the shells that he had picked up with him. Is that  
21 right?

22 A. Yes, sir.

23 Q. Okay. Then you called him on your cell phone, right?

24 A. That's correct.

25 Q. Did he ask you to call him on the cell phone?

1 A. He just said, "Let me know."

2 Q. Okay.

3 A. But he didn't ask me to call him from my cell phone.

4 Q. And he didn't ask you to throw them away?

5 A. Yes, sir.

6 Q. You call him and say what?

7 A. "I found the five remaining shells, and I threw them into  
8 the canal."

9 Q. Okay. And you believe that's all there was?

10 A. Yes, sir.

11 Q. Did Agent Compean tell you where to look for those shells?

12 A. No, sir.

13 Q. You never saw him shooting on the levee, right?

14 A. That's correct, sir.

15 Q. Okay. You don't know, as you sit there today, that the  
16 shells that you picked up belonged to him, do you?

17 A. No, sir.

18 Q. You are aware that there is a Border Patrol policy which  
19 requires you to report -- excuse me. Which requires an agent  
20 to report the discharge of a firearm orally within an hour. Is  
21 that right?

22 A. Yes, sir.

23 Q. That policy also places an obligation on an agent to report  
24 the discharge of a firearm if the agent knows about it,  
25 correct?

1 A. Yes, sir.

2 Q. You didn't report that day?

3 A. That's correct.

4 Q. Okay. Were you suspended for that?

5 A. No, sir.

6 Q. You were placed on administrative leave, which you're still  
7 on. Is that right?

8 A. Yes, sir.

9 Q. You're still getting a paycheck from the Government?

10 A. That's correct.

11 Q. You're not under indictment for anything?

12 A. No, sir.

13 Q. Okay. When you went out to identify the location where you  
14 found shells with Agent Chris Sanchez, that was May 9th. Is  
15 that right?

16 A. I don't remember the date, but I went back with him.

17 Q. You did?

18 A. Yes, sir.

19 Q. Was it on March 18th when you gave a statement?

20 A. Don't remember, sir.

21 Q. Okay. It could have been, you just have no idea?

22 A. Excuse me?

23 Q. It could have been, you just don't know?

24 A. No, I don't know, sir.

25 Q. Do you recall giving another statement in this



1 investigation?

2 A. After this one we went back to the crime scene. We went  
3 over this about the shells, and that's when I did another  
4 amendment to my original report.

5 Q. Okay. And then you later gave another statement. Is that  
6 right?

7 A. We had another meeting, but I don't remember doing a  
8 written statement.

9 Q. You had another meeting, and other people may have taken  
10 notes, but you didn't do a written statement?

11 A. No, sir. That's correct.

12 Q. So today would be the fourth time that you have gone over  
13 the events of February 17, 2005. Is that right?

14 A. That's correct, sir.

15 Q. On that day you were sworn to uphold the laws of the United  
16 States as a Border Patrol agent. Is that right?

17 A. That's correct.

18 Q. You were working that day?

19 A. That's correct.

20 Q. You were doing your best to uphold those laws and to stop  
21 aliens from coming into the United States and stop drugs from  
22 coming into the United States, right?

23 A. That's correct.

24 Q. You did not think on that day that you were doing anything  
25 wrong by picking up shells on the levee and throwing them into

1 the ditch, did you?

2 A. I didn't think that at that time.

3 Q. That's right.

4 MR. ANTCLIFF: One moment, Your Honor.

5 THE COURT: Sure.

6 MR. ANTCLIFF: I'll pass the witness.

7 THE COURT: Ms. Kanoff?

8 REDIRECT EXAMINATION

9 BY MS. KANOFF:

10 Q. Agent Vasquez, you didn't think it was wrong to pick up  
11 those shells to throw them away?

12 A. It was wrong.

13 Q. On that day, did you think it was wrong?

14 A. I wasn't thinking.

15 Q. Because I believe your testimony to my direct was, you know  
16 you're supposed to leave evidence for the evidence team.

17 A. That's correct, ma'am.

18 Q. Okay. If you had known that some human being was shot on  
19 February 17th, 2005, would you have picked up the shells and  
20 destroyed them?

21 A. No, ma'am.

22 Q. The casings that Agent Compean showed you in his hand, were  
23 those the casings you threw away, or did you throw away  
24 different --

25 A. Different casings.

1 Q. Were they casings that you found, as you've testified to  
2 this jury?

3 A. That's correct.

4 Q. You gave a statement to Agent Sanchez on March 18th,  
5 correct?

6 A. That's correct, ma'am.

7 Q. And you -- then, you also gave one to him on May 11th,  
8 correct?

9 A. I don't have that day on that report, but I gave a second  
10 statement.

11 Q. And what differed was that you didn't say, "That bitch took  
12 me to the ground and threw dirt in my face"?

13 A. Yes.

14 Q. Why didn't you tell Agent Sanchez on March 18th instead of  
15 May 11th that Compean told you, "That bitch took me to the  
16 ground and threw dirt in my face"?

17 A. At the time that we were giving that statement, there was  
18 certain stuff that I couldn't remember and stuff that was said  
19 that I didn't remember exactly the way it was said. So that's  
20 why I went back to give the other statement. I tried to recall  
21 as much as possible as to the events the way they happened.

22 Q. Agent Vasquez, you testified that you heard somebody tell  
23 Richards that Compean was assaulted?

24 A. Yes, ma'am.

25 Q. Who did you hear say that?

1 A. Somebody just mentioned it. I didn't know who it was.

2 Q. You don't know -- and how do you know they were talking to  
3 Richards?

4 A. Because the -- the information was directed to him when he  
5 was talking to us.

6 Q. Well, there weren't that many agents out there, were there?  
7 Compean and Ramos hadn't gotten there yet, correct?

8 A. Correct.

9 Q. Yrigoyen and his partner were up on the levee, or they  
10 hadn't even come when you left?

11 A. I don't remember seeing them.

12 Q. Okay. So the only people that were near the van were  
13 yourself, Richards, who else?

14 A. Lance Medrano, Oscar Juarez. Probably Joe Mendez.

15 Q. Probably Joe Mendez? You're not sure?

16 A. No, I'm not sure.

17 Q. Five people?

18 A. Probably the -- Supervisor Robert Arnold.

19 Q. Okay. Well, Lance -- so when -- Richards didn't say it to  
20 Richards, right?

21 MR. ANTCLIFF: Object to leading.

22 A. No.

23 Q. Did Richards say it to Richards?

24 A. No, ma'am.

25 Q. Did Arnold say it to Richards?

1 MR. ANTCLIFF: Calls for hearsay.

2 THE COURT: No. I will overrule the objections.

3 We're asking who said it.

4 Q. Did Arnold say it to Richards?

5 MR. ANTCLIFF: Judge, he testified he doesn't know.

6 I'm going to object to this line of questioning.

7 THE COURT: Overruled.

8 Q. Did he?

9 A. Arnold, no, ma'am.

10 Q. Did Lance Medrano say it?

11 A. No, ma'am.

12 Q. Who's left?

13 A. Probably a couple of three agents. But I can't remember  
14 who said it.

15 Q. Did Oscar Juarez say it?

16 A. I don't remember ma'am.

17 Q. And they used the word "assaulted"?

18 A. "Assault" or "hit." Something to that effect.

19 Q. So you don't remember what was said?

20 A. Not exactly, but something to that effect was mentioned.

21 MS. KANOFF: Pass the witness.

22 THE COURT: Ms. Stillinger -- Mr. Peters? Mr. Peters,  
23 did you have anything further?

24 MR. PETERS: Your Honor, can I have one second?

25 THE COURT: Sure.

1 MR. PETERS: I don't have any further questions.

2 THE COURT: Mr. Antcliff?

3 MR. ANTCLIFF: No more questions, Judge.

4 THE COURT: Is he free to go?

5 MR. ANTCLIFF: Fine by me, Your Honor.

6 MR. PETERS: Fine by me.

7 THE COURT: All right. Thank you. You're free to go.

8 (End of requested testimony.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>	<u>Further Redirect</u>	<u>Voir Dire</u>
WITNESSES FOR THE GOVERNMENT:						

ARTURO VASQUEZ	2	51,69	105			
----------------	---	-------	-----	--	--	--

<u>EXHIBITS:</u>	<u>Offered</u>	<u>Admitted</u>
------------------	----------------	-----------------

Government

27	Photograph-Aerial view/Fabens P.O.E.	4
83C	Photograph-C.C. Bills gate	11
83D	Photograph-south side of C.C. Bills gate	11
83E	Photograph-north side of C.C. Bills gate	11
21	Photograph-location of fourth casing	43
22	Photograph-location of fifth casing	45

\* \* \* \* \*

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature:



David A. Perez, CSR, RPR

Date: May 26, 2006

David A. Perez, CSR, RPR